Housing Authority of the Fresno County

Low Income Public Housing Program

Admission and Continued Occupancy Policy

FYB: January 1, 2027

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CHAPTER 1 – STATEMENT OF POLICIES AND OBJECTIVES

1.1 INTRODUCTION

The Housing Authority of the City of Fresno (herein referred to as FH) is a public entity that serves as the provider of public and affordable housing stock located throughout the City of Fresno. FH is not a federal department or agency. FH is a governmental or public body, created and authorized by state law to develop and operate housing and housing programs for eligible low- income families.

To administer the public housing program, FH enters into an Annual Contributions Contract (ACC) with HUD to administer the public housing program. FH must ensure compliance with federal laws, state law, local laws, regulations and notices and must establish policy and procedures to clarify federal requirements and to ensure consistency in program operation. FH is responsible for complying with all changes in HUD regulations pertaining to the Public Housing Program. If such changes conflict with this plan, HUD regulations will have precedence.

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

In administrating the program, FH is committed to maintaining compliance with the following:

- The regulations which govern the Public Housing program which are located in the Code of Federal Regulations (CFR) at 24 CFR Part 960;
- Executive Order 11063 – Equal Opportunity in Housing;
- The Fair Housing Act, codified at 42 U.S.C. 3601-3619;
- Title VI of the Civil Rights Act of 1964, codified at 42 U.S.C. 2000d;
- The Age Discrimination Act of 1975, codified at 42 U.S.C. 6101-6107;
- Section 504 of the Rehabilitation Act of 1973, as amended at 29 U.S.C. 794;
- Title II of the American with Disabilities Act, 42 U.S.C. 12101;
- Title IX of the Education Amendments of 1972, as amended at 20 U.S.C 1681
- FH is committed in maintaining compliance with federally-protected classes of race, color, religion, national origin, sex, marital status, age, actual or perceived sexual orientation, and disability
- In addition, FH is committed to maintaining compliance with state laws that prohibit housing discrimination based on military status, source of income, ancestry, and/or gender expression.
- Housing Opportunity Through Modernization Act of 2016 (HOTMA)
- Violence Against Women Act Reauthorization Act of 2022 (VAWA)

There are three parts to this chapter:

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

- Part II: The Public Housing Program. This part contains information about public housing operations, roles and responsibilities, and partnerships.
- Part III: The Admissions and Continued Occupancy (ACOP).

Part I

This part discusses the purpose and organization of the plan and its revision requirements.

1.2 HOUSING AUTHORITY OVERVIEW & MISSION

The public housing program is funded by the federal government and administered by the Housing Authority of the City of Fresno for the jurisdiction: City of Fresno in Fresno County.

The vision of FH is thriving, inclusive communities where every individual has access to affordable, safe, and sustainable housing, fostering a foundation for personal growth, health, and communal well-being Our mission is to create and sustain vibrant communities throughout Fresno County.

The Housing Authority of the City of Fresno and the Housing Authority of Fresno County are separate entities, functioning as separate public agencies with separate governing bodies. Through a unique arrangement, the two Housing Authorities share a single Executive Director and staff, thus making it possible to draw on a more comprehensive staff while realizing the cost advantages that result from avoiding duplication, ordering in larger quantities, and sharing equipment and services. Both Housing Authorities are public housing agencies as defined in the United States Housing Act of 1937, as amended, and in 24 C.F.R.. Both agencies have been organized under Section 31000, et a seq., of the California Health and Safety Code.

The Housing Authority of the City of Fresno and the Housing Authority of Fresno County are each governed by a seven-member Board of Commissioners. The City Board is appointed by the Mayor of Fresno. Five of the seven commissioners are appointed to four-year, staggered terms. The other two members are Resident Commissioners and are appointed to two-year terms from among the Housing Choice Voucher or Public Housing programs. The County Board of Commissioners is structured in the same manner, except that the County Commissioners are appointed by the Board of Supervisors.

1.3 ORGANIZATION AND STRUCTURE OF FH

The administration of the public housing program and the functions and responsibilities of FH shall be in compliance with the Annual Contributions Contract (ACC), and this Admissions and Continued Occupancy Policy (herein referred to as ACOP). The administration of FH's housing program will also meet the requirements set forth by the U.S. Department of Housing and Urban Development (HUD). Such requirements include any Public Housing Regulations, Handbooks, and applicable Notices. All applicable Federal, State, and local laws, including Fair Housing Laws and regulations, also apply. Changes in applicable federal statutes, or regulations shall supersede provisions in conflict with this policy. Federal regulations shall include those found in Volume 24 Code of Federal Regulations (CFR), Parts V, VII and IX.

1.4 LOCAL OBJECTIVES

The ACOP demonstrates that FH manages its program in a manner that reflects its commitment to improving the quality of housing available to the public, and its capacity to manage that housing in a manner that demonstrates its responsibility to the public trust. In addition, the ACOP is designed to achieve the following objectives:

- To provide improved living conditions for very low, and low-income families, with their help and cooperation, while maintaining their rent payments at an affordable level.
- To operate a public housing authority that provides decent, safe, and sanitary housing within a suitable living environment for residents and their families, with their help and cooperation.
- To provide opportunities for upward mobility for families who desire to achieve self-sufficiency.

1.5 PURPOSE OF THE POLICY

The purpose of the ACOP is to establish guidelines for FH staff to follow in determining eligibility for admission and continued occupancy. These guidelines are governed by the requirements set forth by HUD with latitude for local policies and procedures. These policies and procedures for admissions and continued occupancy are binding upon applicants, residents, and FH.

1.6 UPDATING AND REVISING THE POLICY

FH will review and update the ACOP at least once a year, and more often if needed, to comply with changes in HUD regulations. The FH Board of Commissioners must approve the original policy and any changes. Pertinent sections must be included in the Agency Plan and a copy provided to HUD.

1.7 FAMILY OUTREACH

FH will publicize and disseminate information to make known the availability of housing units and housing-related services for very low-income families on a regular basis.

FH will communicate the status of housing availability to other service providers in the community. FH will advise them of housing eligibility factors and guidelines in order that they can make proper referrals for those who seek housing.

1.8 POSTING OF REQUIRED INFORMATION

FH will maintain a bulletin board and/or binder in a conspicuous area of the management offices, which will contain HUD, state or other federal required documents including, but not limited to:

- Current schedule of routine maintenance charges
- A Fair Housing Poster
- An Equal Opportunity Employment and Housing poster
- Current Resident Notices
- Required public notices
- Utility Allowance Survey Results
- VAWA Policy
- Admissions and Continued Occupancy Policy (ACOP)
- Language Line Postings
- Resident Lease Agreement
- California Proposition 65 Posting

1.9 CONFIDENTIALITY

It is the policy of FH to comply fully with all Federal, State, and local laws and with rules and regulations governing Confidentiality in housing. Each FH staff signs a "Confidentiality Agreement" at the commencement of their employment. Each FH staff agrees not to disclose any applicant/resident information, directly or indirectly, that is of a personal, private, and confidential nature, to any person or use such information in any way, either during the term of their employment or at any other time thereafter, except as follows:

- To an officer, employee, or authorized representative of FH who has a job related need to have access to the information in connection with admission of applicants, eviction of residents, or termination of assistance.
- If the resident/applicant (or resident's/applicant's parent/guardian, if resident is a minor) consents in writing.
- If disclosure is required by Court Order.
- If disclosure is made to medical personnel in a medical emergency.
- To the duly appointed guardian or conservator of the individual.
- To a law enforcement or regulatory agency who can produce a valid warrant if the use of the information requested is in an investigation of unlawful activity under the jurisdiction of the requesting agency or for Licensing, certification, or regulatory purposes by that agency.
- To any person pursuant to a subpoena, court order, or other compulsory legal process if, before the disclosure, FH reasonably attempts to notify the individual to whom the record pertains, or if the notification is not prohibited by law.
- Disclosure of any information about suspected child or elder abuse and/or neglect reported to appropriate state local authorities pursuant to state law.

- To share resident information that is necessary to determine eligibility for county welfare department programs or services for which the client has applied or is receiving, as authorized by the State of California Health and Safety Code, section 34217.

By signing the *"Confidentiality Agreement",* FH staff agrees that violation of the *"Confidentiality Agreement"* may result in disciplinary action up to and including termination of employment. The unauthorized release of information may subject FH and FH staff to civil action under the Quality Housing and Work Responsibility Act of 1998.

1.10 VIOLENCE AGAINST WOMEN ACT

FH policy will comply with the Violence Against Women Act Reauthorization Act of 2022(VAWA 2022). FH shall not discriminate against an applicant, or public housing resident on the basis of the rights or privileges provided under the VAWA 2022.

FH will provide applicants and residents with notification of their protection and rights under VAWA 2022 as required by HUD. FH may enclose in each application packet information regarding applicant's rights and responsibilities under VAWA 2022. The form HUD-5380 Notice of Occupancy Rights under Violence Against Women Act Reauthorization Act of 2022 (VAWA form HUD-5380) and form HUD-5382 Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation (VAWA 2022 form HUD- 5382) will be included with every notice of denial to applicant and with every notice of termination of assistance or 30-day termination of tenancy to resident(s).

1.11 VAWA CONFIDENTIALITY

All VAWA 2022 information provided to FH, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, regardless of sex, gender identity, or sexual orientation, shall be retained in confidence, and will not be entered into any shared database or provided to any related entity, except to the extent that disclosure is:

- Requested or consented to by the individual in writing.
- Required for use in an eviction proceeding under subsection (1)(5) or (6) of Public Law 109-162 referencing amendments made to Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d).
- Otherwise required by applicable law.

Chapter 2 – Fair Housing & Equal Opportunity

2.1 INTRODUCTION

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

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

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

Part II: Policies Related to Persons with Disabilities. This part discusses the rules and policies of the public housing program related to reasonable accommodation for persons with disabilities. These rules and policies are based on the Fair Housing Act (42 U.S.C. §§ 3601–3619, 3631) and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 and incorporate guidance from the Joint Statement of The Department of Housing and Urban Development and the Department of Justice (DOJ), issued May 17, 2004.

Part III: Serving Limited English Proficient Persons (LEP). This part details current requirements related to LEP persons t

2.2 PART I: NONDISCRIMINATION

2.2.1 Overview

Federal laws require FH to treat all applicants and resident families equally, providing the same quality of service, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, citizenship, immigration status, disability, primary language, source of income, national origin, ancestry, genetic information, gender expression and gender. In addition, HUD regulations provide for additional protections regarding sexual orientation, gender identity, and marital status. It is the policy of FH to 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. FH will comply with all laws relating to Civil Rights, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- 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 Violence Against Women Reauthorized Act (VAWA)

- 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.

2.2.2 Nondiscrimination

FH shall not discriminate on the basis of age, race, color, sex, religion, familial status, citizenship, immigration status, disability, primary language, source of income, national origin, ancestry, marital status, gender identity, genetic information, gender expression, gender or sexual orientation in the leasing, rental, or other disposition of housing or related facilities, including land, that is part of any development or developments under FH jurisdiction covered by a contract for annual contributions under the United States Housing Act of 1937, as amended, or in the use or occupancy, thereof.

Posters and housing information are displayed in locations throughout FH site management offices and the central office in locations that are easily readable and accessible to individuals using mobility devices.

FH's facilities are accessible to persons with disabilities. Accessibility for the hearing impaired is provided by the TDD telephone service provider.

FH shall not, on account of race, age, color, sex, religion, familial status, citizenship, immigration status, disability, primary language, source of income, national origin, ancestry marital status, gender identity, genetic information, gender expression, gender or sexual orientation:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to lease housing suitable to its needs;
- Provide housing that is different from that provided to others;
- Subject a person to segregation or disparate treatment;
- Subject anyone to sexual harassment
- Restrict a person'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 a person 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; or

- 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.

FH shall not automatically deny admission to a particular group or category of otherwise qualified applicants (e.g., families with children born to unmarried parents, elderly families with pets).

2.2.3 PROVIDING Information to Families

FH must take steps to ensure that families are fully aware of all applicable civil rights laws. As part of the public housing orientation process, FH will provide information to public housing applicant families about civil rights requirements. (Fair Housing pamphlet)

2.2.4 DISCRIMINATION COMPLAINTS

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

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

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

Within 10 business days following the conclusion of FH's investigation, FH 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.

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

2.2.5 VAWA Complaint Processing [Notice FHEO 2023-01]

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

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

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

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

2.3 PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES

2.3.1 Overview

The Fair Housing Act prohibits discrimination based on disability. This includes 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 program.

FH must ensure that persons with disabilities have full access to FH 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 8.21-8.27].

FH must provide a notice to each resident that the resident may, at any time during the tenancy, request reasonable accommodation for a person with a disability 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)].

FH policies and practices will be designed to provide assurances that all persons with disabilities will be provided reasonable accommodation so that they may fully access and utilize the housing program and related services. All requests for a reasonable accommodation will be verified so that FH can properly accommodate the need presented by the disability.

This policy is applicable to all situations described in the ACOP when a family initiates contact with FH, when FH initiates contact with a family including when a family applies, and when FH schedules or reschedules appointments of any kind.

FH 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 FH, by including the following language:

"If you or any member of your household has a disability is, and requires a reasonable accommodation ito fully access FH programs or services, please contact Fresno Housing at [phone/email}. Accommodation requests may be made at any time during your participation in our programs"."

An applicant or resident may contact the local property management office to request a reasonable accommodation for a household member with a disability.

2.3.2 Definition of Reasonable Accommodation

A "reasonable accommodation" is a change, exception, or adjustment to a policy, practice or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. Exhibit 2-1 Definition of Person with a Disability under Federal Civil Rights Laws (24 CFR Parts 8.3 and 100.201, is located at the end of this ACOP under "Exhibits". Since policies and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others will sometimes deny them an equal opportunity to use and enjoy a dwelling. [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair

Housing Act]

Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for FH 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.

2.3.3 TYPES OF REASONABLE ACCOMMODATIONS

When it is reasonable (see definition above Section 2.4), FH shall accommodate the needs of a person with disabilities. Examples include but are not limited to:

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

2.3.4 REQUESTS FOR AN ACCOMMODATION

If an applicant or participant indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability. FH will treat the information as a request for a reasonable accommodation, even if no formal request is made as required by HUD. [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 FH programs and services.

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

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

2.3.5 VERIFICATION OF A REQUEST FOR A REASONABLE ACCOMMODATION

A request for an accommodation can be made at any time.

Any resident that requests an accommodation will be given a packet that contains the following:

Form 1: Notice of the Right to Reasonable Accommodation

Form 2: Request for a Reasonable Accommodation

Form 3: Verification of Need for Reasonable Accommodation

Accommodation should be in writing. However, FH will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted.

All residents that request a reasonable accommodation should submit Forms 2 and 3 to the management office.

The process for obtaining the proper verification (when applicable) is explained in the Public Housing, Section 8, and Reasonable Accommodation brochure.

The management office has a Reasonable Accommodation binder that includes the Reasonable Accommodation Log and all supporting documentation.

Property Management staff will forward the reasonable accommodation request to the ADA Coordinator at FH administrative office for processing.

The ADA Coordinator will evaluate the request and consult with the designated staff before rendering a decision. Except in cases involving an imminent emergency, decisions on a request for reasonable accommodation or modification shall be made by the ADA Coordinator as soon as practicable but in no event later than 10 business days after the request form(s) are completed. When additional information or verification(s) are requested by the ADA, FH may take up to 30 business days to make a decision.

The Reasonable Accommodation Request form will include an approval or a denial of the request. If denied, the form will include reasons for denial and possible alternative accommodations. Copies of the Decision on Reasonable Accommodation Request will be sent to the housing development site to be placed in the Reasonable Accommodation binder.

2.3.6 VERIFICATION OF DISABILITY

The regulatory civil rights definition for persons with disabilities is provided in Exhibit 3-1 at the end of this policy. 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 interest list preferences and income allowances.

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

If a person's disability is obvious or otherwise known to the FH, 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 FH, FH must verify that the person meets the definition of a person with a disability, and that the limitations imposed by the disability require the requested accommodation.

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

Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

- FH must request only information that is necessary to evaluate the disability- related need for the accommodation. FH may not inquire about the nature or extent of any disability.
- Medical records will not be accepted or retained in the participant file.
- In the event that FH does receive confidential information about a person's specific diagnosis, treatment, or the nature or severity of the disability, FH will dispose of it. In place of the information, FH 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].

2.3.7 APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION

After a request for an accommodation is presented, FH will respond, in writing, within 10 business days. If FH denies a request for an accommodation because there is no relationship, or nexus, found between the disability and the requested accommodation, the notice will inform the family of the right to appeal FH's decision through an informal hearing (if applicable) or the grievance process (see Chapter 14).

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

2.3.8 PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS

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

At the initial point of contact with each applicant, FH 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 versions and/or audio versions of key program documents will be made available upon request. When visual aids are used in public meetings or presentations, or in meetings with FH 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.

2.3.9 PHYSICAL ACCESSIBILITY

FH 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
- FH 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 FH'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.
- FH Plan provides information about self-evaluation, needs assessment, and transition plans.
- The design, construction, or alteration of FH 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.

2.3.10 DENIAL OR TERMINATION OF ASSISTANCE

FH'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 FH's grievance process [24 CFR 966.4(l) (3) (ii)].

When denying assistance, FH will provide the applicant with VAWA form HUD-5380 and VAWA form HUD- 5382.

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

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

2.4 PART III: SERVING LIMITED ENGLISH PROFICIENT (LEP) PERSONS

2.4.1 OVERVIEW [OAG MEMO 7/14/25 AND EXECUTIVE ORDER 14224}

In March 2025, Executive Order 14224 revoked Executive Order 13166, which had directed agencies to enhance access to federal programs for persons with limited English proficiency (LEP) and required tailored guidance for recipients of federal funding under Title VI of the Civil Rights Act of 1964. Executive Order 14224 also declared English as the official language of the United States.

In response, on July 14, 2025, the Office of the Attorney General (OAG) issued a memo on the implementation of EO 14224, which rescinded all prior guidance to federal agencies regarding Title VI of the Civil Right Act's prohibition against national origin discrimination affecting LEP persons. The

memo presents a legal analysis that finds language is not an immutable characteristic entitled to Title VI protection and decoupling LEP persons from national origin discrimination. The memo states that, where allowed by law, agencies should determine which of their programs and policies might serve the public at large better if operated exclusively in English. The OAG memo also states that agencies are not required to amend, remove, or otherwise stop production of all multilingual documents, products, or other services prepared or offered. Further, many states and localities have laws regarding language services to be provided to non-English speaking persons that may apply to the PHA.
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

2.4.2 ORAL and written communication FH oral and written communications with families will generally be conducted in English. For applicants and participants who may require language assistance, the FH will encourage families to bring an advocate, family member, friend, or other adult representative to assist in communications. The FH will also utilize available resources such as bilingual staff, community volunteer resources, responsible use of artificial intelligence technology, and/or machine translation to assist families with communication.

2.4.4 PRIVACY STATEMENT

Applicants and residents, including all adults in their households, are required to sign the form HUD-9886, “Authorization for Release of Information and Privacy Act Notice.” This document incorporates the Federal Privacy Act Statement and describes the conditions under which HUD will release family information.

FH policy regarding release of information is in accordance with State and local laws, which may restrict the release of family information.

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CHAPTER 3 – ELIGIBILITY AND SUITABILITY FOR ADMISSION TO PUBLIC HOUSING

[24 CFR Part 960, Subpart B]

3.1 INTRODUCTION

This chapter describes the definitions of family and household members, eligibility and suitability criteria for admission to the public housing program. The policy of FH is to apply these criteria to evaluate the qualifications of families who apply. FH will review all information provided by the family carefully and without regard to factors other than those defined in this chapter. Families will be provided the opportunity to explain their circumstances, to furnish additional information, if needed, and to receive an explanation of the basis for any decision made by FH pertaining to their eligibility and suitability. This chapter contains three parts:

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

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

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

3.2 ELIGIBILITY & SUITABILITY CRITERIA FOR ADMISSION

In order to be deemed eligible for admission to public housing, an applicant must meet the following criteria:

- Meets the definition of a family as defined by HUD and FH.
- At least one member of the household must be a U.S. citizen or have eligible non-citizen status as defined by UD. (24 CFR Part 5, Subpart E)
- Has an annual income at the time of admission that does not exceed the low-income limits for occupancy established by HUD and posted separately at FH
- Provides a Social Security number for all family members, or will provide written certification that they legally cannot obtain Social Security numbers at this time and will notify the FH upon receipt of a Social Security number
- Meets the Suitability Criteria as set forth in this chapter
- Has no outstanding debt to any housing authority
- Sign consent authorization documents for each adult in the household.
- FH must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or FH.
- Upon the FH's full implementation of HOTMA, meet net asset and property ownership restriction requirements.

In addition to the above, in order for a family to be determined eligible FH will conduct criminal background checks using but not limited to FBI finger printing, DOJ Lifetime Sex Offender, County and Statewide Criminal searches. A family may be denied assistance if the results show evidence which would prohibit admission to public housing.

3.3 TIMING FOR THE VERIFICATION OF QUALIFYING FACTORS

FH shall not verify eligibility factors until FH "draws" applicant files from the interest list after determining that a sufficient number of vacancies warrant a pool of eligible applicants.

3.4 Part I: Definitions of Family and Household Members

3.4.1 FAMILY AND HOUSEHOLD

[24 CFR 5.105 (a)(2), 24 CFR 5.100, 24 CFR 5.403 Notice PIH 2023-27, and FR Notice 2/14/23]

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

A **family** includes but is not limited to, the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

- Gender Identity means actual or perceived gender characteristics. Sexual Orientation means homosexuality, heterosexuality, or bisexuality.
- A single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person; an otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)), and is homeless or is at risk of becoming homeless at age 16 or older;
- A group of persons residing together and such group includes, but is not limited to:
- A family with or without children; (A child who is temporarily away from the home due to placement in foster care should be considered a member of the family); Temporary absence away from the home is considered a member of the family, except family member currently in foster care. (Temporarily absent is when a family member is in foster care less than 18 months, provided such verification by foster facility is required. Family members who are in foster care longer than 18 months will be removed from the household and can be re-added back into the home once FH receives verification from the foster facility).
- An elderly family: which is defined as a family whose head, co-head, spouse, or sole member is at least 62 years of age; or two or more persons, each of whom are at least 62, living together; or one or more persons who are at least 62 living with one or more live-in aides.
- A near elderly family: which means 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, who are living together; or one

or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

- A disabled family: which means a family whose head (including co-head), spouse, or sole member is a person with a disability. It may include two or more persons with disabilities living together, or once or more persons with disabilities living with one or more live-in aides.
- A displaced family: which means a family in which each member of the sole member is a person displaced by governmental action, or whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized by Federal disaster relief laws.
- A remaining member of a resident family, meaning a family member of an assisted resident family who remains in the unit when other members of the family have left the unit.
- Other families are defined by FH as follows:
- 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 a lived together previously or certify that each individual's income and other resources will be available to meet the needs of the family.
- Each family must identify the individuals to be included in the family at the time of application and must update this information if the family's composition changes.

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

3.4.2 FAMILY BREAK-UP AND REMAINING MEMBER OF RESIDENT FAMILY

Family Break-up

When a family on the interest 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 make a new application with a new application date if the interest 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 continue to be assisted.

If the family breakup results from an occurrence of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the FH must ensure that the victim retains assistance. (For documentation requirements and policies related to domestic violence, dating violence, sexual assault, stalking, and human trafficking, see section 16-VII.D of this plan.)

If a court determines the disposition of property between members of the applicant in a divorce or separation decree, FH will abide by the court's determination.

In the absence of a judicial decision or an agreement among the original family members, FH will determine which family retains their placement on the interest list or in occupancy by taking into consideration the following factors:

- The interest of any minor household member, including custody arrangements;
- The interest of any ill, elderly, or disabled family members;
- The interest of any family member who is or has been the victim of domestic violence, dating violence, sexual assault,, stalking, or human trafficking, including a family member who was forced to leave a public housing unit as a result of such actual or threatened abuse and provides documentation in accordance with section 16.22
- Any possible risks to family members as a result of domestic violence or criminal activity;
- The recommendations of social service professionals.

3.4.3 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 6.2.2 , for the policy on "Caretakers for a Child."

3.4.4 HEAD OF HOUSEHOLD

The "**head of household"** is the adult member of the household who is designated by the family as head, is wholly or partly responsible for paying the rent, and has the legal capacity to enter into a lease under State/local law.

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 spouse or co-head.

A minor who is emancipated under state law may be designated as head of household.

3.4.5 SPOUSE, COHEAD, AND OTHER ADULT

Spouse means the **marriage partner** of the head of household.

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

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

For proper application of the Noncitizens Rule, the definition of **spouse** is the marriage partner who, in order to dissolve the relationship, would have to be divorced. It includes the partner in a common-law marriage. The term spouse does not apply to boyfriends, girlfriends, significant others, or co-heads. Minors who are emancipated under state law may be designated as a co-head.

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

3.4.6 DEPENDENT [24 CFR 5.603]

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

3.4.7 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, FH will make the determination based on available documents such as court orders, or an IRS return showing which family has claimed the child for income tax purposes.

3.4.8 FULL-TIME STUDENT [24 CFR 5.603]

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

- Each family member that is an FTS, other than the head, spouse, or co-head, qualifies the family for a dependent deduction and
- The income of such an FTS is treated differently from the income of other family members.

3.4.9 ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY Elderly Persons

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

3.4.10 Near-Elderly Persons

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

3.4.11 Near Elderly Family

- Family who's head (including co-head), spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or
- Two or more persons at least 50 who are living together; or

- One or more persons at least 50 living with one or more live-in aides.

Does *not* qualify as Elderly Household.

3.4.12 Elderly Family

- An elderly family is one in which the head, spouse, co-head, or sole member is an elderly person. Identifying elderly families is important because these families qualify for the elderly family allowance and Health and Medical Care allowance as described in Chapter 6 and may qualify for a particular type of development as noted in Chapter 4.
- Head, spouse or sole member is at least 62 years of age; or
- Two or more persons, each of whom is 62; or
- One or more persons at least 62, or living with one or more live-in aides

3.4.13 PERSONS WITH DISABILITIES AND DISABLED FAMILY [24 CFR 5.403, FR NOTICE 02/03/2012]

Persons with Disabilities

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

FH must make all aspects of the public housing program accessible to persons with disabilities and consider reasonable accommodations requested based upon a person's disability.

3.4.14 Disabled Family

A **disabled family** is one in which the head, spouse, or co-head is a person with disabilities. Identifying disabled families is important because these families qualify for special deductions from income and may qualify for a particular type of development.

- Head, spouse or sole member is disabled; or
- Two or more persons with disabilities living together; or
- One or more with disabilities, or with one or more live-in aides.

If the Agency application uses co-head, then both need to be considered in determining the household qualifies as a Disabled household.

Even though persons with drug or alcohol dependencies are considered persons with disabilities for the purpose of non-discrimination, this does not prevent FH from denying admission for reasons related to alcohol and drug abuse.

3.4.15 GUESTS [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 provides 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 FH premises [24 CFR 966.4(f)].

The occupancy provisions of the Resident Lease Agreement allows for accommodation of Resident's guest, for a consecutive period not to exceed one (1) week each year without prior approval of management. Guests may be permitted in a Dwelling Unit as long as they have no previous history of behavior that would be a lease violation.

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

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

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

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

3.4.16 FOSTER CHILDREN AND FOSTER ADULTS [24 CFR 5.603]

Foster children or adults are permitted to live in an assisted unit with FH's written approval.

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

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

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 3.4.20 .

3.4.17 ABSENT FAMILY MEMBERS

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

3.4.18 Definitions of Temporarily and Permanently Absent

FH must compute all applicable income of every family member who is on the lease, including those who are temporarily absent.

Income of persons permanently absent will not be counted. If the spouse is temporarily absent and in the military, all military pay and allowances (except hazard duty pay when exposed to hostile fire and any other exceptions to military pay HUD may define) is counted as income.

It is the responsibility of the head of household to report changes in family composition. FH will evaluate absences from the unit in accordance with this policy.

Generally, an individual who is or is expected to be absent from the public housing unit for 60 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 60 consecutive days is considered permanently absent and no longer a family member. (see Chapter 9 for Absence of Entire Family)

3.4.19 Absence of Any Member

Any member of the household will be considered permanently absent and removed from the lease if s/he is away from the unit for 60 days in a 12 month-period except as otherwise provided in this chapter.

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 FH indicating that the student has established a separate household or the family declares that the student has established a separate household.

If the sole member is incarcerated for more than 60 consecutive days, s/he will be considered permanently absent. Any member of the household, other than the sole member will be considered permanently absent if s/he is incarcerated for 60 consecutive days. The rent and other charges must remain current during this period. However, depending on the seriousness of the offense and evidence of criminal activity the member will be prohibited readmission to the program.

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

If the family includes minor household member(s) temporarily absent from the home due to placement in foster care, FH will determine from the appropriate agency when the minor household member(s) will be returned to the home.

If the time period is to be greater than 18 months from the date of removal of the minor household member (s), the family will be required to move to a smaller size unit. If all minor household members are removed from the home permanently, the unit size will be reduced in accordance with FH's occupancy guidelines.

3.4.21 Absent Head, Spouse, or Co-head

An employed head, spouse, or co-head absent from the unit more than 60 consecutive days due to employment will continue to be considered a family member.

If neither parent remains in the household refer to Chapter 9 section "Absence of Adult" for guidance.

3.4.22 ABSENT STUDENT

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 FH indicating that the student has established a separate household or the family declares that the student has established a separate household.

3.4.23 Individuals Confined for Medical Reasons

If any family member leaves the household to enter a facility such as hospital, nursing home, or rehabilitation center, FH will seek advice from a reliable qualified source as to the likelihood and timing of their return. If the verification indicates that the family member will be permanently confined to a nursing home, the family member will be considered permanently absent. If the verification indicates that the family member will return in less than 120 consecutive days, the family member will not be considered permanently absent, as long as rent and other charges remains current. A resident may request in writing to have a longer absence approved. FH has full discretion of approval, and will make determinations on a case by case basis.

If the person who is determined to be permanently absent is the sole member of the household, assistance will be terminated in accordance with FH's "Absence of Entire Family" policy.

3.4.24 Return of Permanently Absent Family Members

The family must request FH approval for the return of any adult family member(s) that FH has determined to be permanently absent. The individual is subject to the eligibility and screening requirements discussed elsewhere in this policy.

3.4.25 LIVE-IN AIDE

Live-in aide means a person who resides with one or more elderly persons, or near- elderly persons, or persons with disabilities, and who:

- 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 [24 CFR 5.403].

FH must approve a live-in aide if needed as a reasonable accommodation in accordance with 24 CFR 8, to make the program accessible to and usable by a family member with disabilities.

A live-in aide is a member of the household, not the family, and the income of the aide is not considered in income calculations [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 must be made in writing. Written verification will be required from a reliable, knowledgeable professional of the family's choosing, such as a doctor, social worker, or case worker, that the live-in aide is essential for the care and well- being of the elderly, near-elderly, or disabled family member. FH will not require annual verification of need for live-in aide if the need is based on a permanent disability.

The family and live-in aide will be required to submit a certification stating that the live-in aide is:

- Not obligated for the support of the person(s) needing the care, and
- Would not be living in the unit except to provide the necessary supportive services.

FH 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 FH or to another FH in connection with Section 8 or public housing assistance under the 1937 Act.
- The person is subject to a lifetime registration requirement under the State Sex Offender Registration program.

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

3.5 PART II: BASIC ELIGIBILITY CRITERIA

3.5.1 INCOME ELIGIBLITY AND TARGETING Income Limits

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

Income eligibility for the public housing program is based on the total anticipated income from all sources received by any family member 18 years of age or older. Income limits are determined by HUD and subject to periodic change. FH shall use income guidelines provided by HUD to determine program eligibility for the public housing program. These income guidelines will be posted at all times at FH's site management offices.

3.5.2 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.

3.5.3 Using Income Limits for Eligibility [24 CFR 960.201 and notice pih 2023-27]

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

To be income eligible, a family must not exceed the applicable income limit for a low- income family as established by HUD.

3.5.4 Using Income Limits for Targeting

[24 CFR 960.202(b), Federal Register Vol. 79, No. 122/06-25-14]

Targeting Requirement

At least 40 percent of the families admitted to FH's public housing program during a FH fiscal year from FH waiting list must be extremely low-income families have incomes at a greater of the Federal poverty level or 30 percent of area median income, whichever number is higher [Federal Register notice 6/25/14] In addition the new ELI limits cannot exceed the Very Low-Income (VLI) limits; therefore, in some cases the ELI limits are identical to the VLI. This is called the "basic targeting requirement".

Credit for admissions to PHA voucher program

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

- Ten percent of waiting list admission to the FH's housing choice voucher program during the FH 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.

3.5.5 CITIZENSHIP/ELIGIBLE IMMIGRATION STATUS [24 CFR 5, SUBPART E]

Public 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

Declaration [24 CFR 5.508]

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

U.S. Citizens and Nationals

U.S. citizens or U.S. nationals (or the parent/guardian for family members under age 18) must sign a declaration of their status, under penalty of perjury. In general, citizens and nationals are required to submit only a signed declaration that claims their status. However, HUD regulations permit the PHA to request additional documentation of their status, such as a passport. HUD strongly encourages PHAs to require that families provide proof of citizenship by such means as birth certificates, naturalization certificates, passports, or other documentation [HUD Secretary Letter 12/16/25].

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

Eligible Noncitizens

Eligible noncitizens (or the parent/guardian for family members under age 18) must sign a declaration of their status, under penalty of perjury. In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and cooperate with FH efforts to verify their immigration status as described in Chapter 7. The documentation required for establishing eligible noncitizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, the person's age, and the date on which the family began receiving HUD-funded assistance.

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

Ineligible Noncitizens

Those noncitizens who do not wish to contend their immigration status are required to have their names listed on a noncontending family members listing, signed by the head, spouse, or cohead (regardless of citizenship status), indicating their ineligible immigration status. Family members who do not sign a declaration of their status or provide the required supporting documentation will be considered ineligible for housing assistance.

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.

For the Citizenship/Eligible Immigration requirement, the status of each member of the family is considered individually before the family's status is defined. [24 CFR 5.508]

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.

Non-eligible members: Applicant families that include only non-eligible members will be ineligible for assistance. Such families will be denied admission and offered an opportunity for a hearing.

Non-citizen students: As defined by HUD in the non-citizen regulations, non-citizen students are not eligible for assistance. [24 CFR 5.522]

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

For new occupants joining the resident family the FH 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 FH 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 in accordance with current HUD regulations.

The FH will establish and verify eligibility status of applicants at the time other eligibility factors are determined.

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

In accordance with 24 CFR 5.216, applicants and participants (including each member of the household) are required to disclose his/her assigned SSN, with the exception of the following individuals:

- Those individuals who do not contend to have eligible immigration status (individuals who may be unlawfully present in the United States). These individuals in most instances would not be eligible for a SSN.
- A family that consists of a single household member (including a pregnant individual) who does not have eligible immigration status is **not eligible** for housing assistance and cannot be housed.
- A family that consists of two or more household members **and at least one** household member that has eligible immigration status, is classified as a mixed family, and **is eligible** for prorated assistance in accordance with 24 CFR 5.520. The FH **will not** deny assistance to mixed families due to nondisclosure of an SSN by an individual who does not contend to have eligible immigration status.
- Existing program participants as of January 31, 2010, who have previously disclosed their SSN and HUD has determined the SSN to be valid. The FH will confirm HUD's validation of the participant's SSN by viewing the household's **Summary Report** or the **Identity Verification Report** in the EIV system.
- Existing program participants as of January 31, 2010, who are 62 years of age or older, and had not previously disclosed a valid SSN. This exemption continues even if the individual moves to a new assisted unit.
- If a child under the age of six (6) has been added to an applicant family's household composition within the last six (6) months prior to program admission, an otherwise eligible family may be admitted to the program and must disclose and document the child's SSN with 90 days of admission.
- FH must deny assistance to an applicant family if they do not meet the SSN disclosure and documentation requirements contained in 24 CFR 5.216.

3.5.8 TIMEFRAME FOR PROVIDING SSN

Applicants currently on or applying to the interest list:

Applicants do not need to disclose or provide verification of a SSN for all non-exempt household members at the time of application and for placement on the interest list. However, applicants must disclose and provide verification of a SSN for all non-exempt household members at the time the applicant family is selected for the full application/intake process.

Housing Applicants from the interest list:

If all non-exempt household members have not disclosed and/or provided verification of their SSNs at the time a unit becomes available, the next eligible applicant must be offered the available unit.

- The applicant who has not disclosed and/or provided verification of SSNs for all non-exempt household members has **60 days** from the date they are first offered an available unit to disclose and/or verify the SSNs. During this **60-day** period, the applicant may, at its discretion, retain its place on the waiting list. After the **60 days**, if the applicant is unable to disclose and/or verify the SSNs of all non-exempt household members, the applicant should be determined ineligible and removed from the interest list.
- An individual who has never been issued a SSN card or who has lost their SSN card will be instructed to complete Form SS-*5 Application for Social Security Card* to request an original or replacement SSN Card, or change information on his/her SSA record.

Resident

All residents, except those individuals age 62 or older as of January 31, 2010, and those individuals who do not contend eligible immigration status, must disclose and provide verification of their SSN at the time of their next interim or annual reexamination if:

- They have not previously disclosed a SSN;
    - Previously disclosed a SSN that HUD or the SSA determined was invalid; or
    - Been issued a new SSN.

If a resident fails to provide a valid and verified SSN, the household is subject to termination of tenancy in accordance with 24 CFR 5.218.

3.5.9 SSN Not Previously Disclosed

The head of household must bring SSN verification, through one or more of the Documents listed in Section 3.5.13, to the reexamination meeting for any household member who has not disclosed and provided verification of their SSN.

3.5.10 Invalid SSN Disclosed

The Head of household must be notified when EIV pre-screening or the SSA validation determines that a household member has provided an invalid SSN. In such cases the FH will explain the reason for the rejection and request that acceptable documentation be provided within ten business days of the request date.

3.5.11 Assignment of a New SSN

If a resident or any member of a resident's household is, or has been, assigned a new SSN, the resident must provide the SSN and documentation to verify the SSN to the FH at:

- The time of receipt of the new SSN; or
- The next interim or regularly scheduled reexamination; or
- Such earlier time as specified by the FH

3.5.12 Adding a Household Member

Age Six (6) or Older

- When a resident request to add a household member who is age six (6) or older, the documentation listed in Section 3.5.13 must be provided to the FH at the time of the request. The FH must not add the new household member until such time as the documentation is provided.

Child Under the Age of Six (6)

- **With a SSN** – When adding a household member who is a child under the age of six (6) with a SSN, the child's SSN must be disclosed and verification provided at the time of processing the reexamination of family composition that includes the new household member. During this time period, the child is to be included as part of the household and will receive all of the benefits of the program in which the resident is involved, including the dependent deduction. A PIC-Alternate ID will be assigned to the child until the documentation of the SSN is required to be provided. At the time of the disclosure of the SSN, an interim reexamination must be processed changing the child's Alternate ID to the child's verified SSN. If the SSN is not provided, the household is subject to penalties described in Penalties for a Resident's non-disclosure of SSN. FH must terminate the entire family's tenancy or assistance, or both.
- **Without an SSN** – if the child does not have an SSN, the FH will give the household 90 days in which to provide documentation of an SSN for the child. An additional 90-day period will be granted by the FH if the failure to provide documentation of an SSN is due to circumstances that are outside the control of the resident.

  Examples include but are not limited to:

  - Delayed processing of the SSN application by the SSA
  - Natural disaster or fire
  - Death in family, etc.

If the family is unable to provide the required documentation of the SSN, FH shall not add the new household member to the family composition until the family provides such documentation. FH is not authorized to generate an ALT ID for the affected household member.

3.5.13 ACCEPTABLE SSN DOCUMENTION

Most applicants and participants should be able to verify all SSNs with a Social Security Card. However, if the applicant/participant cannot produce the Social Security card for any or all non-exempt household members, other documents showing the household member's SSN may be used for verification. The applicant/participant may be required to provide one or more of the following alternative documents to verify his or her SSN.

- An original SSN card issued by the Social Security Administration (SSA) (Refer to PIH Notice 2010-3, Section 6 for a description of the three types of SS cards that SSA issues.)
- An original SSA-issued document with the individual's name and SSN
- An original document issued by a federal, state, or local government agency with the individual's name and SSN
- SSA benefit award letter
- Retirement benefit letter
- Life insurance policy
- Court records

3.5.14 Verification

FH will verify and document each disclosed SSN by:

- Obtaining the documentation listed above for each member of the applicant/participant's household.
- Make a copy of the original documentation submitted, returning the original to the individual and retaining the copy in the file folder;
- Recording the SSN on line 3n of the form HUD-50058 and transmitting the data to HUD in a timely manner. The FH will transmit the form HUD-50058 data within 30 calendar days, to HUD to initiate its computer matching efforts. Note: not applicable to applicants.
- HUD, via its computer matching program with the SSA, will validate the SSN (along with the individual's name and date of birth) against the SSA's database.
- EIV will report the status of the identity verification process as **Verified, Failed, Not Verified, or Deceased** on the household ***Summary Report***.
- **Verified**. If the information matches the SSA database, the individual's identity verification status will be Verified. No action is required by the FH.
- **Failed**. If the information does not match the SSA database, the identity verification status will be Failed. Informs the FH of any resident whose identity cannot be confirmed by the SSA due to incorrect personal identifiers (date of birth, surname, and/or SSN) recorded in section 3 of the form HUD-50058. Requires the FH to obtain appropriate documentation from the resident, update section 3 of the form HUD-50058, accordingly, and re-transmit a revised form HUD-50058 to PIC.

- **Not Verified**. If an individual's identity verification status is Not Verified, this means that HUD has not yet sent the resident's personal identifier to SSA for validation. No action is required by the FH.
- **Pending**. If an individual's identity verification status is Pending, this means that HUD has not yet sent the resident's personal identifiers to SSA for validation. No action is required by the PHA.
- **Excluded**. Effective April 30, 2012 if an individual's identity verification status is Excluded, this means that HUD will not send the resident personal identifiers to SSA for validation because a valid SSN is not reported on line 3n of the form HUD- 50058 or the individual has failed EIV pre-screening as described in section 22 of this notice.
- **Deceased**. If an individual's identity verification status is Deceased, this means the SSA's records indicate the person id deceased. The FH is to confirm the death with family's head of household or listed emergency contact person. If the individual is deceased and the only household member (single member of the household), the FH will complete an End of Participation (EOP) action of form HUD-50058, and discontinue assistance. If there are remaining household members, the FH will complete an Interim Reexamination, updating the family composition accordingly.

3.5.15 Rejection of Documentation

The FH will reject a document that:

- Is not an original document; or
- Is the original document but it has been altered, mutilated, or is not legible; or
- Appears to be a forged document (e.g., does not appear to be authentic).

The applicant/participant will be notified of the reason(s) why the document(s) is not acceptable and request the applicant/participant obtain acceptable documentation of the SSN and submit it to the FH within ten business days of the request date.

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3.5.17 PENALTIES FOR A RESIDENT'S NON-DISCLOSURE OF SSN

Termination of Tenancy – The FH must terminate the tenancy of a resident and the resident's household if the resident does not meet the SSN disclosure, documentation and verification requirements in the specified timeframe as the household is in non-compliance with its lease.

- This termination of tenancy includes those households who have not disclosed and verified SSN for any child under the age of 6 who did not have a SSN when added to the household with the understanding that this SSN would be provided within 90 days after admission, or within the 90-day extension period, if applicable.
- There is no proration of assistance for those household members who are required to obtain a SSN but who fail to disclose and verify their SSN.

- Termination of tenancy does not apply to those household with individuals who do not contend eligible immigration status or who are age 62 or older as of January 31, 2010, whose initial determination of eligibility was begun before January 31, 2010, based on the effective date of the form HUD-50058, unless there are other members of the household who have not disclosed or provided verification of their SSNs.

Deferring Termination of Tenancy – FH may defer termination of tenancy and provide the resident with an additional 90 days past their next regularly scheduled reexamination of income and family composition to become compliant with the SSN disclosure and verification requirements.

- The deferral is at FH's discretion and must only be provided if failure to meet the SSN requirements was due to circumstances outside the control of the resident and there is likelihood that the resident will be able to disclose and provide verification of the needed SSN(s) by the deadline date.
- After this 90-day deferral, if the resident has not disclosed and provided verification of the needed SS(s) the FH must pursue termination of tenancy terminate the entire family tenancy or assistance, or both.

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

HUD requires each adult family member, and the head of household, spouse, or co-head, 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 FH must deny admission to the program if any member of the applicant family fails to sign and submit consent forms which allow FH to obtain information that FH has determined is necessary in administration of the public housing program [24 CFR 960.259(a) and (b)].

3.5.19 RESTRICTION ON ASSITANCE BASED ON ASSETS [24 CFR 5.618]

There are two circumstances under which a family is ineligible for the program based on asset ownership.

First, assistance may not be provided to any family if the family's net assets exceed $100,000 (adjusted annually by HUD).

Second, the family has real property that is suitable for occupancy by the family as a residence and the family has:

- A present ownership interest in the real property;
- A legal right to reside in the real property; and
- The effective legal authority to sell (based on state or local laws of the jurisdiction where the property is located) the real property.

However, the real property restriction does not apply in the following circumstances:

- Any property for which the family is receiving assistance for a manufactured home under 24

CFR 982.620 or under the HCV Homeownership program;

- Any property that is jointly owned by a member of the family and at least one non-household member who does not live with the family, if the non-household member resides at the jointly owned property;
- Any family that is offering the property for sale; or
- Any person who is a victim of domestic violence, dating violence, sexual assault, or stalking.

When a family asks for an exception because a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, FH must comply with all the confidentiality requirements under VAWA. FH must accept a self-certification from the family member, and the restrictions on requesting documentation under VAWA apply.
A property is considered *suitable for occupancy* unless the family demonstrates that it:

- Does not meet the disability-related needs for all members of the family (e.g., physical accessibility requirements, disability-related need for additional bedrooms, proximity to accessible transportation, etc.);
- Is not sufficient for the size of the family. FH defines *not sufficient for the size of the family* as being overcrowded based on the FH's occupancy standards in Chapter 5;
- Is geographically located so as to be a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by the FH or owner);
- Is not safe to reside in because of the physical condition of the property (e.g., property's physical condition poses a risk to the family's health and safety and the condition of the property cannot be easily remedied); or
- Is not a property that a family may reside in under the State or local laws of the jurisdiction where the property is located.

3.6 PART III: SCREENING & DENIAL OF ADMISSION

3.6.1 SCREENING FOR ADMISSION

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

FH is required to screen for eviction and criminal activity as part of the rental assistance program. HUD requires FH to set screening standards to ensure that those persons who are prohibited from being admitted to public housing will not receive assistance. The FH's authority in this area is limited by the Violence against Women Reauthorization Act 2022 (VAWA), which expressly prohibits the denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking. VAWA protections are not only available to women, but are available equally to all individuals regardless of sex, gender, identity, or sexual orientation [24 CFR 5.2005 (b)].

This part covers the following topics:

- Screening
- The asset limitation in public housing
- Required denial of admission
- Other permitted reasons for denial of admission
- Criteria for deciding to deny admission
- Prohibition against denial of admission to victims of domestic violence, dating violence, sexual assault, , stalking, or human trafficking, regardless of sex, gender identity, or sexual orientation
- Notice of eligibility or denial

3.6.2 SCREENING STANDARDS

The screening for eviction and criminal activity will occur after an applicant family has been selected from the interest list. All adults (age 18 and above), including emancipated minors in the applicant household, including live-in attendants, and all incoming family's members must go through the screening process.

3.6.3 Criminal Background Checks

The family will be required to disclose criminal/drug-related activity for all family members. All adult family members must submit a signed Criminal Background Consent form in order for the FH to obtain access to the Criminal Background records. [24 CFR 5.903]

FH will conduct criminal background checks using but not limited to FBI finger printing, DOJ Lifetime Sex Offender, and County and Statewide Criminal searches. A family may be denied assistance if the results show evidence which would prohibit admission to public housing.

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

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

When conducting a background check the FH will obtain the following reports;

- Credit report
- Eviction report
- Criminal background report
- Lifetime sex offender registration report [24 CFR 960.204(a)(4)].

3.6.4 Screening for Suitability [24 CFR 960.203(c)]

All applicants will be processed in accordance with HUD's regulations (24 CFR Part 960) and sound management practices. Applicants will be required to demonstrate ability to comply with essential provisions of the lease as summarized below.

All applicants must demonstrate through an assessment of current and past behavior the ability:

- To pay rent and other charges as required by the lease in a timely manner;
- To care for and avoid damaging the unit and common areas;
- To use facilities, appliances and equipment in a reasonable way;
- To create no health or safety hazards, and to report maintenance needs in a timely manner;
- Not to interfere with the rights and peaceful enjoyment of others and to avoid damaging the property of others;
- Not to engage in criminal activity or alcohol abuse that threatens the health, safety or right to peaceful enjoyment of other residents or staff and not to engage in drug-related criminal activity on or off the FH premises;
- Not to have ever been convicted of manufacturing, producing, or distributing methamphetamine, also known as “speed,” on the premises of federally assisted housing;
- Not to be subject to sex offender lifetime registration under a state sex offender registration program. *
- To comply with necessary and reasonable rules and program requirements of HUD and the FH;
- To comply with local health and safety codes.
- Not to have committed fraud, bribery, or any other corrupt or criminal act.
- Misrepresentation of income or other eligibility factors to an agency other than FH for example welfare fraud, is grounds for denial of assistance; and
- Non-compliance with any assistance programs and/or local law enforcement plus governmental agency may be denied assistance.

In developing its admission policies, the aim of FH is to attain a resident body composed of families with a broad range of incomes and to avoid concentrations of the most economically deprived families and families with serious social problems. Therefore, it is the policy of FH to deny admission to applicants whose habits and practices may reasonably be expected to have a detrimental effect on the operations of the development or neighborhood or on the quality of life for its residents.

FH will conduct a detailed interview of all applicants designed to evaluate the qualifications of applicants to meet the essential requirements of tenancy. Answers may be subject to third party verification.

An applicant’s misrepresentation of any information related to eligibility, award of preference for admission, housing history, allowances, family composition, criminal history, or rent may result in denial of admission.

Applicants must be able to demonstrate the ability and willingness to comply with the terms of the lease. Should the applicant require assistance in order to comply with the terms of the lease, the applicant must notify FH that the assistance will be available at the time of admission. (24 CFR 8.2 Definition: Qualified Individual with Disabilities) The availability of assistance is subject to verification by the FH.

The FH's minimum age for admission as head of household is 18, so that the FH will avoid entering into leases that would not be valid or enforceable under applicable law.

As a part of the final suitability determination, FH will screen each applicant household to assess their suitability as renters.

- FH may complete a credit check or rental history check on all applicants.
- FH may complete a home visit at the current residence of all applicants who:
    - Have had landlords refuse to sign their Resident Reference Form;
    - Stated information on their application that is inconsistent with information on the credit and unlawful detainer report;
    - Do not have an established residence at the time of their suitability review (e.g., state they live "here and there with friends");
    - Have landlords raise suitability issues on the landlord verification. ;
- Have a criminal history that raises suitability concerns;
- Claim to have zero income (to establish how they are meeting their needs);
- Were interviewed by FH staff who has found the applicant's statement or behavior to raise concerns regarding suitability.

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

FH's examination of relevant information pertaining to past and current habits or practices will include, but is not limited to, an assessment of:

- The applicant's past performance in meeting financial obligations, especially rent;
- Eviction or records of disturbance of neighbors sufficient to warrant a police call, destruction of property, or living or housekeeping habits at present or prior residences, which may adversely affect the health, safety, or welfare of other residents or neighbors;
- Any history of criminal activity on the part of any applicant family member, involving criminal acts, including drug-related criminal activity;
- Any history or evidence of repeated acts of violence on the part of an individual, or a pattern of conduct constituting a danger to peaceful occupancy by neighbors;

- Any history of initiating threats or behaving in a manner that indicates intent to assault employees or other residents;
- Any history of alcohol or substance abuse that would threaten the health, welfare, or right to peaceful enjoyment of the premises by other residents.
- Is subject to a lifetime registration requirement under the State Sex Offender Registration Program.

The ability and willingness of an applicant to comply with the essential lease requirements will be verified and documented by FH. The information to be considered in the screening process shall be reasonably related to assessing the conduct of the applicant and other family members listed on the application in present and prior housing.

The history of applicant conduct and behavior must demonstrate that the applicant family can reasonably be expected not to:

- Interfere with other residents in such a manner as to diminish their peaceful enjoyment of the premises by adversely affecting their health, safety, or welfare [24CFR 960.205(b)]
- Adversely affect the physical environment or financial stability of the development [24CFR 960.205(b)];
- Violate the terms and conditions of the lease [24CFR 8.3];
- Require services from FH staff that would alter the fundamental nature of the FH's program [24 CFR 8.3].

FH shall make an exception for emancipated minors upon completion of verifying their legal status as such.

3.6.6 SCREENING FOR DRUG-RELATED AND/OR CRIMINAL ACTIVITY [24 CFR 960.204]

It is the intention of the FH to administer a policy that maintains decent, safe, and sanitary public housing. All screening procedures shall be administered fairly and in such a way as to not discriminate on the basis of race, color, sex, religion, familial status, disability, national origin, marital status, gender identity, or sexual orientation or against other legally protected groups as well as not in violation of the right to privacy.

FH will obtain criminal history information from State and/or local law enforcement agencies, and/or a national federal database on all applicants over the age of eighteen for the purpose of determining resident suitability.

All applicants to the public housing program will be screened for drug-related, violent- and other criminal activity during the suitability review process. FH defines criminal activity in the following manner:

Drug-Related Criminal Activity: the illegal manufacture, sale, distribution, 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: any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against a person or property. [24 CFR 5.100] 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.

Lifetime Registration: any criminal activity that subjects a member of the applicant's household to be subject to sex offender lifetime registration under a State sex offender registration program.

Other Criminal Activity: any criminal activity including, but not limited to, violent criminal activity which would adversely affect the health, safety, or right to peaceful enjoyment of the public housing premises by other residents, includes, but not limited to: [24 CFR 960.203 (c) (3)]

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

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

Evidence of such criminal activity includes, but is not limited to any record of convictions, arrests, or evictions for suspected drug-related or violent criminal activity of household members within the past 3-5 years. A conviction for such activity will be given more weight than an arrest or an eviction.

3.6.7 MANDATORY DENIAL OF ASSISTANCE [24 CFR 960.204]

HUD regulations require mandatory denial of assistance for the following reasons:

- FH will deny admission to those applicants convicted of manufacturing or producing methamphetamine on the premises of Federally assisted housing, in accordance with HUD regulations.
- An applicant evicted from federally assisted housing by reason of drug-related criminal activity within a three year period shall be denied admission.
- FH will deny admission to applicants where it is determined that there is a *pattern* of illegal use of a controlled substance or abuse of alcohol by the applicant. The FH will consider the illegal use of a controlled substance or abuse of alcohol a "pattern" where there is more than three (3) incidents during the previous 24 months.
- Current illegal drug use for any household members – if FH determines that any household member is **currently engaged in** any illegal use of a drug and/or possession.
- In accordance with 24 CFR 960.204 (a) (4), FH will deny admission to public housing for any applicant who is subject to sex offender lifetime registration under a state lifetime sex offender registration program.
- FH will deny admission to public housing for any applicant who has engaged in violent criminal activity within the last five years, however, depending upon the seriousness of the crime committed the prohibition would be up to seven years from the date of the offense.

HUD and the FH have defined the following clarifiers:

- **Drug** means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802].
- **Pattern of abuse** is defined as the use and/or possession of a controlled substance or alcohol if there is more than three (3) incident during the previous 24 months.
- **Incident** includes but is not limited to arrest, convictions, no contest pleas, fines and city ordinance violations.
- **Currently engaged in** as any use or possession of illegal drugs during the previous twelve months.
- **Abusive or violent behavior** includes verbal as well as physical abuse or violence. Use of expletives that are generally considered insulting, racial epithets, or other language (written or oral) that is customarily used to insult or intimidate, may be cause for denial of admission.
- **Threatened** refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In determining reasonable cause, FH will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. A conviction will be given more weight than an arrest. FH will also consider evidence from treatment providers or community- based organizations providing services to household members.

3.6.8 Restriction on assistance based on assets [24.cfr 5.618}

There are two circumstances under which a family is ineligible for the program based on asset ownership.

First, assistance may not be provided to any family if the family's net assets exceed the HUD-published asset limitation amount (adjusted annually by HUD).

- This amount is listed in HUD's current year Inflation-Adjusted Values tables.

Second, the family has real property that is suitable for occupancy by the family as a residence and the family has:

- A present ownership interest in the real property;
- A legal right to reside in the real property; and
- The effective legal authority to sell (based on state or local laws of the jurisdiction where the property is located) the real property.

FH does not have the discretion not to enforce or provide limited enforcement of the asset limitation at admission. However, the real property restriction does not apply in the following circumstances:

- Any property for which the family is receiving assistance for a manufactured home under 24 CFR 982.620 or under the HCV Homeownership program;
- Any property that is jointly owned by a member of the family and at least one non-household member who does not live with the family, if the non-household member resides at the jointly owned property;
- Any family that is offering the property for sale; or
- Any person who is a victim of domestic violence, dating violence, sexual assault, or stalking.
    - When a family asks for an exception because a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, the FH must comply with all the confidentiality requirements under VAWA. The FH must accept a self-certification from the family member, and the restrictions on requesting documentation under VAWA apply.

A property is considered *suitable for occupancy* unless the family demonstrates that it:

- Does not meet the disability-related needs for all members of the family (e.g., physical accessibility requirements, disability-related need for additional bedrooms, proximity to accessible transportation, etc.);
- Is not sufficient for the size of the family;

  FH defines *not sufficient for the size of the family* as being overcrowded based on the PHA's occupancy standards in Chapter 5.
- Is geographically located so as to be a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by the FH or owner);

  In general, the FH defines *a geographic hardship* to include when a family members' work, school, health care provider, or other necessary service is located an unreasonable distance from the real property or there is a lack of adequate transportation options for the family to access work, school, health care, or other necessary services. The FH will consider circumstantial details a family faces when determining whether a geographical hardship is present.
- Is not safe to reside in because of the physical condition of the property (e.g., property's physical condition poses a risk to the family's health and safety and the condition of the property cannot be easily remedied); or
- Is not a property that a family may reside in under the State or local laws of the jurisdiction where the property is located.

If a family meets one of the above exceptions, the real property is not automatically excluded from the calculation of net family assets. Unless the real property is specifically excluded from net family assets as described in 24 CFR 5.603 and Chapter 6 of this policy, it will be included in net family assets. If the value of that real property brings the net family assets above the HUD-published asset limitation amount, the family is out of compliance with the asset limitation.

See Chapter 7 for information on verifying net family assets for purposes of the asset limitation.

3.6.9 ADDITIONAL PROHIBITIONS [960.203(C) AND (D) AND PH OCC GB, P. 48]

FH may at any time deny program assistance for any of the following reasons:

- Financial Obligations - has a pattern of unsuitable past performance in meeting financial obligations, including rent within the past three years.
- Disturbances - has a pattern of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences within the past three years which may adversely affect the health, safety, or welfare of other residents.
- Past Termination from a FH Program: If FH has ever terminated assistance under the program for any member of the family; has a pattern of eviction from housing or

termination from residential programs within the past three years (considering relevant circumstances).

- Outstanding Debt: If the family currently owes rent or other amounts to FH or to another FH in connection with Section 8 or public housing assistance under the 1937 Act;
- Fraud, Bribery, or Other Corrupt or Criminal Act Within a Federal Housing Program: If any family member has committed such acts in connection with a Federal housing program.
- Actual or Threatened Abusive or Violent Behavior Toward FH Personnel: If the family has engaged in or threatened abusive or violent behavior toward FH personnel.
- Repayment Breach with FH: If the family breaches an agreement owed to a FH.
- Fraud Against Another Agency: Misrepresentation of income or other eligibility factors to an agency other than the FH, for example welfare fraud, is grounds for denial of assistance.
- Non-compliance: With any assistance programs, governmental agency and/or law enforcement.
- An applicant's misrepresentation: Of any information related to eligibility, preferences, housing history, allowances, family composition, and/or criminal history.

Engaged in or threatened violent or abusive behavior toward FH personnel:Abusive or violent behavior towards FH personnel includes verbal abuse 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.

- Actual physical abuse or violence will always be cause for denial of admission.

FH Policy - FH may prohibit admission of a household to the program if FH determines that any household member has a history of any of the following prior to admission:

- Drug-related criminal activity; up to three years from the date of the offense.
- Other criminal activity which may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity; up to three years from the date of the offense.
- Other criminal activity which may threaten the health or safety of the owner, property management staff, or persons performing a contract administration function or responsibility on behalf of the FH (including a FH employee or a FH contractor, subcontractor or agent); up to three years from the date of the offense.
- Violent criminal activity; up to five to seven years from the date of the offense, depending upon the seriousness of the offense.
- Convicted of any felony; up to three years from the date of the offense.

- Is subject to a lifetime registration requirement under the State Sex Offender Registration Program.

A conviction for drug-related or violent criminal activity will be given more weight than an arrest for such activity. Although an arrest record cannot solely be used for denying or terminating program assistance, an arrest record can trigger an inquiry into whether there is sufficient evidence for the FH to determine that a person engaged in disqualifying criminal activity, but is not itself evidence on which to base a determination. FH will utilize other evidence, such as police reports detailing the circumstances of the arrest, witness statements, and other relevant documentation to assist them in making a determination that disqualifying conduct occurred. Reliable evidence of a conviction for criminal conduct that would disqualify an individual for tenancy may also be the basis for determining that the disqualifying conduct is fact occurred [PIH 2015-19]

3.6.10 OTHER SUITABILITY FACTORS Rent-Paying Habits

FH will examine any FH records from a prior tenancy, and will request written references from the applicant's current landlord and may request written references from current and former landlords for up to the past three years.

Based upon these verifications, FH will determine if the applicant was chronically late with rent payments, has been evicted for nonpayment of rent, or had other legal action initiated against him/her for debts owed. Any of these circumstances could be grounds for an ineligibility determination, depending on the amount of control the applicant had over the situation.

3.6.11 Mitigating Circumstances - Obtaining Information from Drug Treatment Facilities [24 CFR 960.205]

In determining whether to deny admission to public housing based on a pattern of illegal use of a controlled substance or abuse of alcohol by an applicant, and/or prior eviction from federally assisted housing by reason of drug-related criminal activity, FH may consider the following mitigating factors:

- Has successfully completed a supervised drug or alcohol rehabilitation program (as applicable) and is willing to continue with counseling and support activities and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable);
- Has otherwise been rehabilitated successfully and is willing to continue with counseling and support activities and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable); or
- Is participating in a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable).

Mitigating circumstances are facts relating to the applicant's record of unsuitable history or behavior, which, when verified, would indicate both:

- What the reason for the unsuitable history and/or behavior is; and
- That the reason for the unsuitable history and behavior is no longer in effect or is under control, and the applicant's prospect for lease compliance is an acceptable one, justifying admission.

If unfavorable information is received about an applicant, consideration shall be given to the time, nature, and extent of the applicant's conduct and to factors that might indicate a reasonable probability of favorable future conduct. In order to be factored into the FH's screening assessment of the applicant, mitigating circumstances must be verifiable.

If the mitigating circumstances claimed by the applicant relate to a change in disability, medical condition or course of treatment, FH shall have the right to refer such information to persons who are qualified and knowledgeable to evaluate the evidence and to verify the mitigating circumstance. FH shall also have the right to request further information reasonably needed to verify the mitigating circumstance, even if such information is of a medically confidential nature. Such inquiries will be limited to the information necessary to verify the mitigating circumstances or, in the case of a person with disabilities, to verify a reasonable accommodation.

Examples of mitigating circumstances:

- Evidence of successful rehabilitation;
- Evidence of the applicant family's participation in and completion of social service or other appropriate counseling service approved by the FH;
- Evidence of successful and sustained modification of previous disqualifying behavior.

Consideration of mitigating circumstances does not guarantee that the applicant will qualify for admission. FH will consider such circumstances in light of:

- The applicant's ability to substantiate through verification the claim of mitigating circumstances and his/her prospects for improved future behavior; and the applicant's overall performance with respect to all the screening requirements.

3.6.12 QUALIFIED AND UNQUALIFIED APPLICANTS

Information which has been verified by FH will be analyzed and a determination will be made with respect to:

- The eligibility of the applicant as a family;
- The eligibility of the applicant with respect to income limits for admission; and
- The eligibility of the applicant with respect to citizenship or eligible immigration status.

Assistance to a family may not be delayed, denied or terminated on the basis of the family's ineligible immigration status unless and until the family completes all the verification and appeals processes to which they are entitled under both Department of Homeland Security (DHS) and FH procedures, except for a pending FH hearing.

Applicants who are determined to be unqualified for admission will be promptly notified with a

Notice of Denial of Admission stating the reason for the denial. The FH shall provide applicants an opportunity for an informal hearing (see chapter titled "Complaints, Grievances, and Appeals").

FH will make every effort to accurately estimate an approximate date of occupancy. However, the date given by FH does not mean that applicants should expect to be housed by that date. The availability of a suitable unit to offer a family is contingent upon factors not directly controlled by FH, such as turnover rates, and market demands as they affect bedroom sizes and development location.

3.6.13 HOUSING ACCESS AND REENTRY PILOT PROGRAM

Fresno Housing (FH) may consider adopting policies that allows individuals formerly incarcerated to live with their families in public housing, while receiving supportive services. An individual who would otherwise be ineligible for public housing assistance must have been referred to FH by a partnering agency and may be considered for housing based on adjusted policy criteria associated with the programs suitability standards.

Exceptions to the suitability standards would not be extended to the following HUD required denials [24 CFR 960.204] to the following individuals:

- Persons convicted of manufacturing or producing methamphetamine on the premises of federally assisted housing;
- Any person subject to a life time registration requirement under a state sex offender registration program;

3.6.14 DOCUMENTATION OF FINDINGS

An authorized representative of FH shall document any pertinent information received relative to the following:

- Criminal Activity—includes the activities listed in the definition of criminal activity in this chapter.
- Pattern of Violent Behavior—includes evidence of repeated acts of violence on the part of an individual, or a pattern of conduct constituting a danger to peaceful occupancy of neighbors.
- Pattern of Drug Use—includes a determination by FH that the applicant has exhibited a pattern of illegal use of a controlled substance which might interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.
- Drug-Related Criminal Activity—includes a determination by FH that the applicant has been involved in the illegal manufacture, sale, distribution, use or possession of a controlled substance.
- Pattern of Alcohol Abuse—includes a determination by FH that the applicant's pattern of alcohol abuse might interfere with the health, safety or right to peaceful enjoyment of the premises by other residents.
- Initiating Threats—or behaving in a manner indicating intent to assault employees or

other residents.

- Abandonment of a Public Housing Unit without advising FH officials so that staff may secure the unit and protect its property from vandalism.
- Non-Payment of Rightful Obligations—including rent and/or utilities and other charges owed to the FH or any other FH.
- Falsifying an Application for Leasing—providing false information about family income and size, is using an alias on the application for housing, or making any other material false statement or omission intended to mislead.
- Record of Serious Disturbances of Neighbors, Destruction of Property or Other Disruptive or Dangerous Behavior—consists of patterns of behavior that endanger the life, safety, or welfare of other persons by physical violence, gross negligence or irresponsibility; that damage the equipment or premises in which the applicant resides; or that are seriously disturbing to neighbors or disrupt sound family and community life, indicating the applicant's inability to adapt to living in a multi-family setting. Includes judicial termination of tenancy in previous housing on the grounds of nuisance or objectionable conduct, or frequent loud parties that have resulted in serious disturbances of neighbors.
- Grossly Unsanitary or Hazardous Housekeeping—includes the creation of a fire hazard through acts such as hoarding rags, papers, or other materials; severe damages to premises and equipment, if it is established that the family is responsible for the condition; seriously affecting neighbors by causing infestation, foul odors, depositing garbage in halls; or serious neglect of the premises. This category does not include families whose housekeeping is found to be superficially unclean or due to lack of orderliness, where such conditions do not create a problem for neighbors.
- Destruction of Property from previous rentals.
- Whether Applicant or Resident Is Capable of Maintaining the Responsibilities of Tenancy In the case of applicants for admission, the person's present living arrangements and a statement obtained from applicant's physician, social worker, or other health professional will be among factors considered in making this determination. The availability of a live-in attendant will be considered in making this determination.
- In the event of the receipt of unfavorable information with respect to an applicant, consideration shall be given to the time, nature, and extent of the applicant's conduct and to factors that might indicate a reasonable probability of favorable future conduct or financial prospects.

3.6.15PROHIBITED CRITERIA FOR DENIAL OF ADMISSION

FH shall not reject an applicant on the basis of:

- Race, color, sex, religion, familial status, disability, national origin, marital status gender identity, or sexual orientation.

Or on the basis that the applicant:

- Has no income;
- Is not employed;
- Does not participate in a job-training program;
- Will not apply for various welfares or benefit programs;
- Has a child (or children);
- Has children born out of wedlock;
- Is on welfare;
- Is a student;
- Is or had been a victim of domestic violence, dating violence, sexual assault, , stalking, or human trafficking if the applicant otherwise qualifies for assistance or admission, and that nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provide greater protection than this section for victims of domestic violence, dating violence, sexual assault, , stalking, or human trafficking.

3.6.16 GRIEVANCE RIGHTS WHEN FH DECISION IS TO DENY ADMISSION

If FH obtains criminal record information from a State, local, or federal agency showing that a household member has been convicted of a crime relevant to applicant screening, FH will notify the household of the proposed action to be based on the information and must provide the subject of the record and the applicant or resident a copy of such information, and an opportunity to dispute the accuracy and the relevance of the information. This opportunity must be provided before a denial of admission on the basis of such information.

If denied as a result of the criminal background check, FH will send a written notification of the denial which will include:

- The reason for the denial,
- The right of an individual to review the evidence regarding his criminal background which was the basis of the denial,
- An explanation of the right to request an informal review, and
- A description of how to obtain the informal review.
- A copy of VAWA form HUD-5380 and VAWA form HUD-5382

The family will be given 10 business days from the date of the FH notice, to dispute the accuracy and relevance of the information. If the family does not contact the FH to dispute the information within the 10 business day period, the FH will proceed with the termination action.

3.6.17 RECORDS MANAGEMENT

Consistent with the limitations on disclosure of records, FH has established and implemented a system of records management that ensures that any criminal record received by FH from a law enforcement agency is:

- Maintained confidentially;
- Not misused or improperly disseminated; and
- Destroyed, once the purpose(s) for which the record was requested has been accomplished, including expiration of the period for filing a challenge to FH action without institution of a challenge or final disposition of any such litigation.

All credit and/or eviction and criminal background history is retained by the contracted provider. FH will not print search results unless there is a need to due to an applicant's request for an Informal Review or as needed for review.

Credit and/or eviction reports will be kept in the applicant or participant file for three years.

A copy of the Criminal Background Consent form along with the approval/denial status will be kept in the applicant file.

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

HUD authorizes the FH 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.

In deciding whether to deny assistance because of action or failure to act by members of the family; the FH has [24 CFR 982.552 (c) (2)]:

- Discretion to consider all relevant circumstances in each case, including the seriousness of the case. FH will use its discretion in reviewing the extent of participation or culpability of individual family members, mitigating circumstances related to the disability of a family member, and the passage of time since the family's action or failure to act.
- When the ground for denial of assistance is related to criminal activity, such factors as disclosure of the criminal act, completion of rehabilitative treatment for drug- related offenses, and type and longevity since the conviction will be considered.
- FH may also review the family's more recent history and record of compliance, and the effects of denial of admission on other family members who were not involved in the action or failure to act [24 CFR 982.552 (c) (2) (i)].
- FH may impose a requirement that family members who participated in or were culpable for the action or failure will not reside in the unit [24 CFR 960.203(c)(3)(i)]. FH may permit the other members of a family to be admitted to the program. If the violating member is a *minor*, the FH may consider individual circumstances with the advice of Juvenile Court officials. FH will also consider whether the culpable member is a victim of domestic violence, dating violence, sexual assault, , stalking, or human trafficking.
- In determining whether to deny admission for illegal use of drugs or alcohol abuse by a

household member who is no longer engaged in such behavior, the FH [24 CFR 982.552 (c) (2) (iii)]:

- Will consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or
- Has otherwise been rehabilitated successfully (42 U.S.C. 13661).
- May require the family to submit evidence of the household member's current participation, or successful completion of a supervised drug or alcohol rehabilitation program.
- Reasonable Accommodation: If the family includes a person with disabilities, the FH'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 FH will determine whether the behavior is related to the disability. If so, upon the family's request, FH will determine whether alternative measures are appropriate as a reasonable accommodation. FH 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.

FH will also consider whether the family disclosed the information to the FH when completing the certification packet.

If an applicant is or has been a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, this is not an appropriate basis for denial of admission, if the applicant otherwise qualifies for admission.

3.6.19 Removal of a Family Member's Name from the Application [24 CFR 960.203(c) (3) (i)]

HUD permits FH to impose as a condition of admission, a requirement that family members who participated in or were culpable for an action or failure to act which warrants denial of admission, to not reside in the unit. 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 FH request.

Required Evidence

FH will use the concept of the preponderance of the evidence as the standard for making all termination decisions.

Preponderance of 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 show that the fact sought to be proved is more probable than not. The intent is not to prove criminal liability, but to establish that the act(s) occurred.

- Preponderance of evidence will not be determined by the number of witnesses, but by the greater weight of all evidence.
- Credible evidence may be obtained from police and/or court records. Testimony from neighbors, when combined with other factual evidence, can be considered credible evidence. Other credible evidence includes documentation of drug raids or arrest warrants.
- FH will pursue fact-finding efforts as needed to obtain credible evidence.

3.6.20 PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING, OR HUMAN TRAFFICKING [24 CFR PART5, SUBPART L]

The Violence against Women Reauthorization Act 2022 (VAWA) and HUD regulation at 24 CFR 5.2005 (b) prohibits denial of admission to an otherwise qualified applicant on the basis or the direct result of the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault , stalking, or human trafficking. Specifically, Section 607(2) of VAWA adds the following provision to Section 6 of the U.S. Housing Act of 1937, which lists contract provisions and requirements for the public housing program:

Every contract for contributions shall provide that the public housing agency shall not deny admission to the development to any applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking if the applicant otherwise qualifies for assistance or admission, and that nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

Definitions of key terms used in VAWA are provided in Section 16.8 of this ACOP, where general VAWA requirements and policies pertaining to notification, documentation, and confidentiality are also located.

Notification

FH acknowledges that a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking may have an unfavorable history (e.g., a poor credit history, poor rental history, a record of previous damage to an apartment, a prior arrest record) due to adverse factors that would warrant denial under the FH's policies. Therefore, if the FH makes a determination to deny admission to an applicant family, FH will include in its notice of denial:

- A statement of the protection against denial provided by VAWA
- A description of FH confidentiality requirements
- A request that an applicant wishing to claim this protection submit to the FH documentation meeting the specifications below with her or his request for an informal hearing.

- A VAWA Notice of Occupancy Rights (VAWA form HUD-5380) and domestic violence certifications (VAWA form HUD-5382) at the time the applicant is denial.

Documentation

Victim Documentation [24 CFR 5.2007]

An applicant claiming that the cause of an unfavorable history is that a member of the applicant family is or has been a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking must provide documentation:

- Demonstrating the connection between the abuse and the unfavorable history;
- Naming the perpetrator of the abuse, only if the name is known and safe to provide. The documentation may consist of any of the following:
- A statement signed by the victim certifying that the information provided is true and correct and that it describes bona fide incident(s) of actual or threatened domestic violence, dating violence, sexual assault, stalking, or human trafficking. A police or court record documenting the domestic violence, dating violence, sexual assault, stalking, or human trafficking. Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault, stalking, or human trafficking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; or a medical or other knowledgeable 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.

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.

Time Frame for Submitting Documentation

The applicant must submit the required documentation with her or his request for an informal hearing or must request an extension in writing at that time. If the applicant so requests, the FH will grant an extension of 10 business days and will postpone scheduling the applicant's informal hearing until after it has received the documentation or the extension period has elapsed. If, after reviewing the documentation provided by the applicant, the FH determines that the family is eligible for assistance, no informal hearing will be scheduled, and the FH will proceed with admission of the applicant family.

FH Confidentiality Requirements [24 CFR 5.2007(a)(1)(5)]

All information provided to the FH regarding domestic violence, dating violence, sexual assault, stalking, or human trafficking, including the fact that an individual is a victim of such violence, stalking, or human trafficking, must be retained in confidence and may neither be entered into any shared database nor provided to any related entity, except to the extent that the disclosure

- Is requested or consented to by the individual in writing,
- Is required for use in an eviction proceeding, or
- Is otherwise required by applicable law.

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the FH will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

3.6.21NOTICE OF ELIGIBILITY OR DENIAL

The FH will notify an applicant family of its final determination of eligibility in accordance with the Section 4.4.16.

If, based on a criminal record or sex offender registration information an applicant family appears to be ineligible under 24 CFR 5, Subpart J, the FH 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 [24 CFR 5.903(f) and 5.905(d)].

The family will be given 10 business days to dispute the accuracy and relevance of the information. If the family does not contact FH to dispute the information within that 10- day period, FH 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 3.28.

Notice policies related to denying admission to applicants who may be victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking are contained in Section 3.6.19. VAWA requires that the FH inform an applicant of the protections against denial that VAWA provides when the FH sends a notice of denial.

Applicants may be denied due to factors that on the surface appear unrelated to domestic violence, dating violence, sexual assault, stalking, or human trafficking, but are in fact a direct result of the fact that the applicant was a victim. Adverse factors which would ordinarily be grounds for denial under FH policy such as poor credit history, poor rental history, a criminal record, or failure to pay rent may be tied to the applicant's status as a victim. While the FH is not required to independently identify whether a denial is a direct result of domestic violence, dating violence, sexual assault, stalking, or human trafficking, by informing all applicants of their rights under VAWA as part of the notice of denial, the applicant may be able to inform the FH of their status as a victim. If so, the applicant must provide enough information for the FH to make a determination regarding the adverse factor that is a direct result of their status as a victim. The FH may request additional supporting documentation in accordance with FH policies. The FH must make an objectively reasonable determination, based on all circumstances whether the adverse factors are a direct result of the applicant's status as a victim. If the denial is required by federal statute, such as the requirement to deny an applicant who is registered under a state lifetime sex offender registration requirement, the FH must comply with the statute, even if the adverse factor is a direct result of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

The model policy considers adverse factors relating to an applicant's status as a victim and states the FH will make an objectively reasonable determination.

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CHAPTER 4 – PRE-APPLICATIONS, MANAGEMENT OF THE INTEREST LIST AND RESIDENT SELECTION

[24 CFR 5.400, 5.600, 960.201 through 960.208]

4.1 INTRODUCTION

The policy of FH is to ensure that all families who express an interest in housing assistance are given an equal opportunity to apply, and are treated in a fair and consistent manner. At the time the interest* list is open, families wishing to participate in the low income public housing program must submit a pre-application providing all information requested by FH. This information allows FH to place each applicant on the interest list in accordance with the policies in this Admissions & Continued Occupancy Policy.

Random lottery draws will be used as the methodology to select applicants from the interest list to create the waiting list, as needed. A final draw/purge of the interest list may take place annually.

*Interest list: A list of applicants wishing to participate in the random lottery/selection process. This chapter will explain the policies for the interest list, initial pre-application intake process, management of the interest list, completion of the full application and resident selection. It describes how FH accepts the pre-applications, how FH maintains the interest list with accurate information, selecting families from the interest list, establishing and verifying preferences and selecting eligible applicants for a unit offer. Eligibility for program admission as well as grounds for denial of admissions is covered in Chapter 3.

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

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

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

4.2 PART I: THE PRE-APPLICATION PROCESS

4.2.1 APPLYING FOR ASSISTANCE [24 CFR 1.4(B)(2)(II), 24 CFR 960.202(A)(2)(IV), AND PH OCC GB, P. 68]

FH is permitted by HUD to determine the format and content of applications. For the purpose of establishing an interest list, pre-applications will be accepted from any family wishing to apply for Low Income Public Housing. FH may select one or more of the following methods for pre-applications:

- Submitted on-line via FH website
- By Phone

- By mail
- Submitted in person
- By other methods as described in the public announcement

At the time, the FH announces its intent to open the interest list, the actual methods for accepting pre-applications will be clearly stated in the public announcement and similar outreach methods.

If an applicant is disabled and requires special accommodation in submitting a pre- application, and the disability is obvious, FH will accommodate the request without verifying the disability. Specific instructions for making a reasonable accommodation request will be included in the public notice and other pre-application outreach materials.

Pre-Application via FH Website

Applications may only be submitted online using a computer, smartphone, tablet, or other electronic device with internet access @www.fresnohousing.org main page under Applicants.

Pre-Application Intake by Phone or by Mail

When this method is available, pre-applications taken by phone or mail will be recorded according to date and time received.

Pre-Application Intake in Person

When this method is available, pre-applications will be completed by the family and FH will record the date and time the application is received.

In accordance with HUD regulations {24 CFR 982.205 (a)(2)(i)}at the time an applicant is applying for Public Housing, if applications are being accepted for Housing Choice Voucher assistance, the family must be offered an opportunity to apply for the other program. FH will not merge the Public Housing interest list with the interest list for any other program (s) FH operates.

Duplicate pre-applications, including pre-applications from a segment of an applicant household, will not be accepted.

4.3 PART II: MANAGING THE INTEREST LIST

4.3.1 PRE-APPLICATION

FH utilizes a pre-application form and applicants must provide all requested information. Pre-applications are taken to compile an interest list. The following is true of the pre- application process:

- Pre-applications **will not** require an interview.
- Pre-applications will contain questions designed to obtain pertinent information from the applicant.
- The information provided and certified by the applicant on the pre- application **will not** be verified until the applicant has been selected for final eligibility determination.
- Final eligibility will be determined when the full application process is completed and all

information is verified.

In accordance with HUD, but not limited to, the following information will be requested from the family at the time the pre-application is completed.

- First name, middle initial, last name and social security number of all household members;
- Address of Head of Household and phone numbers
- Whether a current member of the U.S. Armed Forces; a veteran; or surviving spouse of a veteran;
- Information pertaining to qualification for any local preference;
- Racial or ethnic designation of all household members;
- Birthdate of all household members;
- Sex of all members, i.e. other adults and minors and relationship to head- of-household or co-head or spouse;
- Whether any household member is a person with disabilities
- E-mail address

4.3.2 INTEREST LIST STRUCTURE

Once the pre-application is complete, FH will place all applicants on the interest list except duplicate records; determination of eligibility will not be assessed until the full formal application process, which is covered in Section 4.20. FH will maintain an interest list by locality (city) for its developments in the County of Fresno. Within the list, FH will designate subparts to easily identify who should be offered the next available unit (i.e. mixed population, general occupancy, unit size, and accessible units). Families will receive confirmation that their pre-application was accepted and all changes must be made online within 10 business days in the **Applicant Portal**. For persons with disabilities or other reasonable accommodations, see Section 2.4 of this policy.

At the time of the pre-application, any information indicating the applicant may qualify for a local preference (e.g., an applicant's certification that they reside within the jurisdiction qualifying them for the Residency Preference) will be accepted without verification at the pre-application stage. Actual qualification for a local preference will be verified during the full application process.

The interest list will be maintained in accordance with the following guidelines:

- The pre-application will be a permanent file.
- Pre-applications must include as a minimum the following information to be placed on the interest list with the following information about each applicant:
    - Name;
    - Family size;
    - Date and time of the completed pre-application;

    - Information pertaining to possible qualification for a local preference; and
    - Race and ethnicity of the head of household.
- Pre-applications taken by a method other than lottery or random methodology will be maintained in order of preference. Pre-applications equal in preference will be maintained by date and time sequence.
- Pre-applications taken by lottery or random methodology will be maintained in order of preference. Applicants with equal preference points will be randomized amongst other pre-applications with equal points.
- False statements on the pre-application regarding preferences may be grounds for denial of admission and the pre-application may be cancelled; see Section 4.23 in this Chapter for related information about preference denials.

4.3.3 Applicant Portal:

The Applicant Portal has been established for persons who submit a pre-application with FH so that they may create an on-line account to review and update their personal information, including their current address, as well as indicate their continued interest in remaining on the interest list. FH's method of communication with the applicant may be by either mail, phone or electronic email, therefore, it is critical that applicants have a valid, current mailing address, phone number and email address at all times so that FH is able to make contact with the applicant when selected from the interest list.

4.3.4 PLACEMENT ON THE INTEREST LIST

The FH will assign families on the interest list according to the bedroom size for which a family qualifies as established in its occupancy standards in Chapter 5. Families may request to be placed on the interest list for a unit size smaller than designated by the occupancy guidelines (as long as the unit is not overcrowded according to FH standards and local codes). However, in these cases, the family must agree not to request a transfer for one year after admission, unless they have a change in family size or composition. No applicant has a right or entitlement to be listed on the interest list, or to any particular position on the interest list.

4.3.5 OPENING AND CLOSING OF THE INTEREST LIST

FH announces its intent to accept pre-applications for the purpose of establishing an interest list by placing a classified ad in a local newspaper and/or other suitable means if available; including but not limited to the agency website, social media, radio announcement, or other Public Service Announcements.

The advertisement will comply with HUD fair housing requirements and will contain:

- The dates and times when families may apply.
- The program(s) for which pre-applications will be taken.
- A brief description of the program(s).

- The methods by which pre-applications will be accepted.
- Limitations, if any, on who may apply.

Normally, the opening and closing dates for pre-application intake will be clearly stated in the notice.

However, if at the time, the interest list is opened, and the closing date for pre-application intake has not yet been determined, the notice will indicate that pre-application intake will be open until further notice. Once it becomes necessary to close the interest list due to the existing interest list containing an adequate pool of applicants (i.e., expected time before families will be selected is anticipated to be between 12 and 24 months) for use of available program funding, FH will apply the same advertising methods of broad general circulation for closing the interest list as were used for opening the interest list.

4.3.5 FAMILY OUTREACH [24 CFR 903.2(D); 24 CFR 903.7(A) AND (B)]

FH will publicize and disseminate information to make known the availability of housing units and housing-related services for very low-income families on a regular basis.

FH will communicate the status of housing availability to other service providers in the community. FH will advise them of housing eligibility factors and guidelines in order that they can make proper referrals for those who seek housing.

4.3.6 REPORTING CHANGES IN FAMILY CIRCUMSTANCES

Applicants are required to update any changes to their family composition, preference status, mailing address and/or email address within 10 business days of occurrence via the online applicant portal. This will also assist FH in establishing and maintaining a current and updated interest list to more effectively plan for future pre-application intake. Applicants are also required to respond to requests from FH to update information on their pre-application, or to determine their continued interest in assistance.

When an applicant supplies information, which indicates qualification for an additional preference, the applicant will be placed on the interest list in the appropriate order determined by the newly claimed preference, in combination with any previously claimed preference.

The interest list will be maintained with accurate information.

If an applicant is disabled and requires reasonable accommodation in submitting changes the accommodation request must be made in writing unless the person's disability is obvious or otherwise known.

4.3.7 PURGING THE INTEREST LIST

The primary goal in purging an interest list is to obtain current information on interested applicants and to remove applicants who are no longer interested in participating in the program.

The interest list will be purged as needed to ensure that all applicants and applicant information is current and accurate. The FH has three methods of purging the interest list:

- To update the interest list, the FH may send an update request via first-class mail to each applicant on the interest list. The applicant will be asked whether they have continued interest in the program and the FH will provide a deadline by which the applicant must respond. This update request will be sent to the last address that the FH has on record for the applicant. If no response is received by the deadline, the applicant will be removed from the interest list.
- The FH may also require applicants to register and create an online applicant portal account so the FH may send an email. The applicant will be asked to access their online applicant portal account to save their spot on the interest list and the FH will provide a deadline by which the applicant must respond. If no response is received by the deadline, the applicant is removed from the interest list.
- The FH may conduct a final draw periodically. Applicants not included in the final draw will be cancelled from the interest list and notified of their status via email and/or first class mail.

4.3.8 CANCELLATION FROM THE INTEREST LIST FOR NO RESPONSE

Any mailings to the applicant which require a response by a specific deadline will state that failure to respond by the deadline or failure to attend a scheduled appointment or failure to log onto the applicant portal to save their spot, will result in the applicant's name being removed from the interest list.

If a letter is returned by the Post Office or if the applicant does not save their spot via the online applicant portal the pre-application will be canceled without further notice, and the envelope and letter will be maintained in the file and/or a record of the email sent will be stored electronically.

If the applicant did not respond to FH request for information or updates because of a family member’s disability, this fact will be verified and documented, and FH will reinstate the applicant in the family’s former position on the interest list.

FH will cancel the pre-application when the applicant does not respond to FH request for response. Such failures to act on the part of the applicant prevent FH from making an eligibility determination; therefore, no informal hearing is required.

If a family is removed from the interest list for failure to respond, designated FH staff of the interest list may reinstate the family if she/he determines the lack of response was due to FH error, or to circumstances beyond the family’s control.

4.4 PART III: RESIDENT SELECTION

4.4.1 RESIDENT SELECTION FROM THE INTEREST LIST FOR ADMISSION

Once the interest list has been established and as units become available for admission, FH will create an application pool and begin the full application process. For information about Eligibility for Admission, refer to Chapter 3.

This section will describe the following policies:

- Selecting families from the interest list
- Establishing and verifying preferences
- Completing the full application for final eligibility determination
- Selecting of eligible applicants for unit offer

The policies are outlined and are organized into three sections, as follows:

- Creating an Application Pool. This section will cover creating an application pool from the interest list.
- The Full Application Process. This section will explain how the applicants are invited to the formal initial eligibility interview to complete the full application.
- Determining Applicants Eligible or Ineligible. This section will explain the process of the final eligibility determination for unit offer, determining family's ineligible or returning applicants to the interest list.

4.4.2 CREATING AN APPLICATION POOL

As families are selected from the interest list based on the FH turnover and the availability of funding, applicants will be selected from the interest list to form a final eligibility pool.

It is the FH objective to pull names from the interest list within a reasonable amount of time and determine if the family is eligible for assistance. The information provided on the pre-application will be verified during this final eligibility process.

4.4.3 METHOD OF SELECTION

FH preference system will work in combination with requirements to match the characteristics of the family to the type of unit available, including units with targeted populations, and further deconcentrate poverty in public housing. When such matching is required or permitted by current law, FH will give preference to qualified families.

Families who are selected from the interest list will be contacted by FH to complete a full application for occupancy. Applicants may not retain their place on the waitlist if they refuse to complete the application process, or fail to provide required documentation to determine eligibility.

Applicants who fail to respond to the initial notice will be removed from all Public Housing waiting and interest lists for Fresno County. Removal from the waiting list means the applicant must reapply if interested when the interest list for that locality re-opens. Applicants removed due to failure to respond to the initial notice will have up to six (6) months from the removal date to contact FH to be reinstated on the interest list they were removed from and reinstated on the waitlist they were pulled for.

Preferences will be ranked by highest points. Applicants with the same ranking will be selected according to random lottery.

Once the initial application pool is established, each applicant will be invited to the full application process. FH will conduct this method of selection so there is a clear audit trail that can be used to verify that each applicant has been selected in accordance with the method specified in this policy.

4.4.4 LOCAL PREFERENCES [24 CFR 960.206]

Preferences affect only the order of the applicants on the interest list. They do not make anyone eligible who was not eligible before.

FH may establish local preferences based upon housing needs and priorities as determined by FH and based on accepted data sources, after providing an opportunity for public comment, and will consider the public comments received.

Although no verification of preference is required at pre-application, before the family is provided assistance, the family's eligibility for the preference based on the current circumstances will be verified.

FH has established the following local preferences:

HCV Abatement-Affected Family Preference (2 points) The FH will provide a preference for an HCV family whose HAP contract is being terminated due to an owner failing to make required repairs within the required time frame, and who were unable to lease a new unit within the term of the voucher.

RESIDENCY PREFERENCE (15 POINTS)

This local preference would continue to give a preference for applicants who live, work or attend school in the City or County of Fresno.

This is further defined to mean that an applicant must only meet one of the following criteria to be eligible for the Residency Preference:

The family must live, or at least one member must have a job, within the limits of Fresno County.

- Applicants who have been notified that they are hired to work in Fresno County must be treated as a resident.
- A resident is also defined to mean at least one adult member of the applicant household is currently enrolled in a Fresno County institution of higher education.

HUD regulations state that a residency preference must not be based on how long an applicant has resided or worked in a residency preference area.

Change in an applicant's circumstances while on the interest list may affect the family's qualification for a preference. Applicants are required to notify FH via the online application system when their circumstances change.

UNITED STATES VETERAN'S PREFERENCE (10 POINTS)

This preference applies to active U.S. Armed Forces, veterans and their surviving spouses.

LIMITED PREFERENCE

Limited preferences require a referral and are available even when the interest list is closed to other applicants. Limited preferences affect only the order of the applicants on the interest list. They do not make anyone eligible who was not eligible before. Referrals must meet eligibility criteria per Chapter 3.

Homeless Persons

FH will set aside up to 25 public housing units specifically for homeless families/individuals in homeless assistance programs and or initiatives. These 25 units for homeless families/individuals will take precedence over the following until fully utilized.

Displacement Referrals

Applicants who have vacated housing as a result of:

- A Natural disaster that has been declared by a local, state, or federal government entity (fire, flood, earthquake, etc.) verification to be provided by:
- Certification from a unit of government concerning displacement due to disaster.
- Federal, State or local government action related to code enforcement, public improvement or development. Verification to be provided by:
- Certification from a unit of government concerning displacement due to code enforcement, public improvement or development and coordinate referral with FH;
- Victims of domestic violence, dating violence, sexual assault, , stalking, or human trafficking who either:
    - Have vacated due to actual or threatened physical violence directed against the applicant or the applicant's family by a spouse or other household member, or
    - Live in housing with an individual who engages in such violence. Such "actual" or "threatened" violence must have occurred recently or be of a continuing nature. An applicant who lives in a violent neighborhood or is fearful of other violence outside the household is not considered involuntarily displaced.
- As a result of an emergency transfer from another PHA or HUD covered housing program in accordance with Exhibit 16.5 VAWA policy.
- Applicant, or member of applicant family, has been advised by a law enforcement agency to relocate to minimize risk of violence against family members as a result of providing information on criminal activities to a law enforcement agency. Proper safeguards will be provided by the PHA to conceal the identity of families requiring protection against such reprisal. Verification to be provided by Law Enforcement Agency.
- Applicant, or member of applicant family, has been the victim of one or more hate crimes. "Hate crime" means actual or threatened violence or intimidation that is directed against a person or his or her property and that is based on the person's race,

color, sex religion, familial status, disability, national origin, marital status, gender identity, or sexual orientation. The hate crime must be of a recent and continuing nature.

- Verification to be provided by: Certification from local police, social service agency, court, clergy, physician, public or private shelter, or counseling facility concerning displacement due to domestic violence, fear of reprisal, or hate crime.

Applicants who have actually been displaced must not be living in "standard, permanent replacement housing," which is defined as housing that is decent, safe, and sanitary that is adequate for the family size (according to code/Housing Quality Standards), and that the family is occupying pursuant to a lease or occupancy agreement.

Such housing does not include transient facilities, hotels, motels, temporary shelters, and (in the case of victims of domestic violence) does not include housing in which the applicant lives with the individual who engages in such violence.

PREFERENCE ELIGIBILITY [24 CFR 982.207] CHANGE IN CIRCUMSTANCES

Qualification for an additional preference, the applicant will be placed on the interest list in the appropriate order determined by the newly claimed preference, in combination with any previously claimed preference.

4.4.5 INCOME TARGETING [24 CFR 960.202(B)]

FH will monitor its admissions to ensure that at least 40% of families admitted to public housing in each fiscal year shall have incomes as defined in Section 3.15 of the Admissions and Continued Occupancy Policy.

FH shall, at its discretion, at least annually, exercise the “fungibility” provision of QHWRA by admitting less than 40% of “extremely low-income families” to public housing in a fiscal year, to the extent that the FH has provided more than 75% of newly available Section 8 Housing Choice Vouchers to “extremely low-income families.” This fungibility provision discretion by the FH is also reflected in the FH’s Section 8 Administrative Plan.

The fungibility credits will be used to drop the annual requirement below 40% of admissions to public housing for extremely low income families by the lowest of the following amounts:

- The number of units equal to 10% of the number of newly available vouchers in the fiscal year; or
- The number of public housing units that 1) are in public housing developments located in census tracts having a poverty rate of 30% or more, and 2) are made available for occupancy by and actually occupied in that year by, families other than extremely low-income families.

The Fungibility Floor: Regardless of the above two amounts, in a fiscal year, at least 30% of the FH’s admissions to public housing will be for extremely low-income families. The fungibility floor is the number of units that cause the HA's overall requirement for housing extremely low-income families to drop to 30% of its newly available units.

4.4.6 DECONCENTRATION OF POVERTY AND INCOME MIXING [24 CFR 903.1 AND 903.2]

The FH's admission policy is designed to provide for deconcentration of poverty and income mixing by bringing higher income residents into lower income developments and lower income residents into higher income developments.

A resident's gross annual income is used to determine income limits at admission and for income-mixing purposes.

4.4.7 Deconcentration and Income-Mixing Goals

FH's deconcentration and income-mixing goal, in conjunction with the requirement to target at least 40 percent of new admissions to public housing in each fiscal year to "extremely low-income families," will be to admit higher income families to lower income developments, and lower income families to higher income developments.

Deconcentration will apply to transfer families as well as applicant families.

4.4.8 Development Designation Methodology [24 CFR 903.2(c)(1)]

Annually, FH will determine on an annual basis the average income of all families residing in general occupancy developments.

FH will then determine the average income of all families residing in each general occupancy development.

FH will then determine whether each general occupancy development falls above, within, or below the Established Income Range (EIR).

The EIR is 85 percent to 115 percent (inclusive of 85 percent and 115 percent) of the FH- wide average income for general occupancy developments.

FH will then determine whether or not developments outside the EIR are consistent with local goals and strategies in FH Agency Plan.

FH may explain or justify the income profile for these developments as being consistent with and furthering two sets of goals:

- Goals of deconcentration of poverty and income mixing (bringing higher income residents into lower income developments and vice versa); and
- Local goals and strategies contained in the FH Annual Plan.

4.4.9 Deconcentration Policy

If, at annual review, there are found to be development(s) with average income above or below the EIR, and where the income profile for a general occupancy development above or below the EIR is not explained or justified in FH Plan, the FH shall adhere to the following policy for deconcentration of poverty and income mixing in applicable developments.

Skipping a family on the interest list to reach another family in an effort to further the goals of FH's deconcentration policy:

- If a unit becomes available at a development below the EIR, the first eligible family on the interest list with income above the EIR will be offered the unit. If that family refuses the unit, the next eligible family on the waiting list with income above the EIR will be offered the unit. The process will continue in this order. For the available unit at the development below the EIR, if there is no family on the waiting list with income above the EIR, or no family with income above the EIR accepts the offer, then the unit will be offered to the next family regardless of income.
- If a unit becomes available at a development above the EIR, the first eligible family on the interest list with income below the EIR will be offered the unit. If that family refuses the unit, the next eligible family on the waiting list with income below the EIR will be offered the unit. The process will continue in this order. For the available unit at the development above the EIR, if there is no family on the waiting list with income below the EIR, or no family with income below the EIR accepts the offer, then the unit will be offered to the next family regardless of income.

Skipping of families for deconcentration purposes will be applied uniformly to all families.

A family has the sole discretion whether to accept an offer of a unit made under the FH's deconcentration policy. FH shall not take any adverse action toward any eligible family for choosing not to accept an offer of a unit under this deconcentration policy. However, FH shall uniformly limit the number of offers received by applicants, described in this Chapter.

If the average incomes of all general occupancy developments are within the Established Income Range, FH will be considered to be in compliance with the deconcentration agreement.

Nothing in the deconcentration policy relieves FH of the obligation to meet the income targeting requirements.

4.4.10 PROMOTION OF INTEGRATION

Beyond the basic requirement of nondiscrimination, FH shall affirmatively further fair housing to reduce racial and national origin concentrations.

FH shall not require any specific income or racial quotas for any development or developments.

FH shall not assign persons to a particular section of a community or to a development or building based on race, color, sex, religion, disability, familial status, disability, national origin, marital status, gender identity, or sexual orientation for purposes of segregating populations.

4.4.11 UNITS DESIGNATED FOR THE ELDERLY OR DISABLED [24 CFR 945]

FH may elect at some future time to submit an Allocation Plan as required by the 1992 Housing Act to designate specific units or sites for elderly or disabled applicants only. In accordance with the 1992 Housing Act, elderly families with a head, spouse or sole member at least 62 years of age or disabled families with a head, spouse or sole member who qualifies as a person with disabilities as defined in 24 CFR 945.303(c) (1) would receive a preference for admission to such units or buildings covered by a HUD-approved Allocation Plan.

4.4.12 MIXED POPULATION UNITS [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).

In accordance with the 1992 Housing Act, elderly families whose head spouse or sole member is at least 62 years of age, and disabled families whose head, co-head or spouse or sole member is a person with disabilities, will receive equal preference to such units.

No limit will be established on the number of elderly or disabled families that may occupy a mixed population property. All other FH preferences will be applied.

4.4.13 GENERAL OCCUPANCY UNITS

General occupancy units are designed to house all populations of eligible families. In accordance with the FH’s occupancy standards, eligible families’ not needing units designed with special features or units designed for special populations will be admitted to the FH’s general occupancy units.

FH will use its local preference system as stated in this chapter for admission of eligible families to its general occupancy units.

4.4.14 FULL APPLICATION PROCESS

HUD recommends obtaining the information and documents needed to make an eligibility determination through a face-to-face interview.

FH utilizes the full application interview to discuss the family's circumstances in greater detail, to clarify information which has been provided by the family, and to ensure that the information is complete. The interview is also used as a vehicle to provide information about the application and verification process, as well as to advise the family of other FH services or programs for which the family may be available.

The interviews are scheduled based on order of selection from the interest list. Applicants may be required to complete a Personal Declaration Packet which may be mailed or emailed to the applicant in advance to complete.

Interviews will be conducted in English. For applicants who may require language assistance, the FH will encourage families to bring an advocate, family member, friend, or other adult representative to assist in communications. The FH will also utilize available resources such as bilingual staff, community volunteer resources, responsible use of artificial intelligence technology, and/or machine translation to assist families with communication

Being invited to attend an interview does not constitute admission to the program.

The head of household, spouse and all adult family members are required to attend the interview. Exceptions may be made for adult students attending school out of state or for members for whom attendance would be a hardship.

Applicants who want to reschedule an appointment must make the request to reschedule no later than 2 days prior to the original appointment date. If the applicant does not reschedule or misses one scheduled meeting, FH will reject the application.

The family will be required to provide the following information for each family member within the household:

- Name of Head of Household and Social Security Number
- Racial or ethnic designation of all family members
- Names, sex and birthdates of all family members
- Relationship of all family members to head of household
- Street Address and phone numbers (message and contact numbers)
- Mailing Address (If PO Box or other permanent address)
- Amount(s) and source(s) of income received by all household members
- Information regarding disabilities to determine qualifications for allowances and deductions
- Information related to qualification for preferences
- Social Security Numbers for all family members [Refer to Notice PIH 2012-10 & Chapter 3, Section 3.18 Timeframe for Providing SSN.]
- Citizenship/eligible immigration status
- Answers to questions regarding arrests/convictions for drug-related or violent criminal activity or child molestation
- If applicable, a Request for Specific Accommodation, if needed by a person with disabilities in order to fully utilize program and services
- Current and previous landlord’s names and addresses
- Emergency contact person and address. Form HUD-92006, Supplement to Application for Federally Assisted Housing, as part of the FH’s application [Notice PIH 2009-36].
- Program integrity questions regarding previous participation in HUD programs

4.4.15 VERIFICATION

All adult members must sign and complete the Application for initial occupancy, HUD Form 9886 (Release of Information), the declarations and consents related to citizenship/immigration status and any other documents required by FH. Applicants will be required to sign specific verification forms for information, which is not covered by the HUD Form-9886.

Applicant is required to provide necessary verification, which may not be more than 60 days old from the date of the initial eligibility interview. All information provided by the applicant, will be verified, using the verification procedures described in Chapter 6. If any information is not supplied or if the family fails to sign any of the forms required, the application may be denied.

As part of the full application process, FH will verify the family's eligibility for a local preference based on current circumstances

After the verification process is completed, FH will make a final determination of eligibility. This decision is based upon information provided by the family, the verification completed by FH, and the current eligibility criteria in effect.

4.4.16 DETERMINING APPLICANTS ELIGIBLE OR INELIGIBLE

Each applicant will be interviewed by FH staff to review the information on the Application for initial occupancy and Personal Declaration Packet.

If FH determines at or after the interview that additional information or document(s) are needed, the FH will request the document(s) or information in writing. The family will be given 10 business days to supply the information and the applicant's file will be placed in a pending status. Extensions may be approved based on extenuating circumstances. If the information is not supplied within this time period, the application may be cancelled without further notice.

If the family is determined eligible, they will be notified of the approximate time that assistance should be available. The eligible applicants will be offered a unit based on wait list placement.

Applicants that have not cleared the criminal background check will be placed on a pending status.

If FH determines that the family is ineligible, the FH 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 in accordance with Chapter 14, Grievances & Appeals.

Upon making an eligibility determination, FH must provide the family a notice of VAWA rights (VAWA form HUD-5380) as well as the VAWA self-certification form (VAWA form HUD-5382) in accordance with the Violence against Women Act and as outlined in Chapter 16 of this plan. The notice and self-certification form must accompany the written notification of eligibility determination. This notice must be provided in both of the following instances:

- When a family is notified of its eligibility; or
- When a family is notified of its ineligibility.

4.4.17 PREFERENCE DENIAL

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

unless the family was selected during the final draw, in which case the pre-application may be cancelled. The family will be notified in writing when this occurs, and advised of the family's right to request an informal review. For additional information, refer to Chapter 14.

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CHAPTER 5 – OCCUPANCY STANDARDS & UNIT OFFERS

5.1 INTRODUCTION

This Chapter states FH Occupancy Standards used to determine the appropriate development type and unit size for families. Policies in this chapter are organized in two parts.

- Part I: Occupancy Standards. This part contains FH's standards for determining the appropriate unit based on family size.
- Part II: Unit Offers. This part contains FH's policies for making unit offers and describes actions to be taken when unit offers are refused.

5.2 PART I: OCCUPANCY STANDARDS

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

5.2.1 DETERMINING UNIT SIZE

Guidelines for determining bedroom size.

All

Bedroom Size	Persons in Household: Minimum #	Persons in Household: Maximum #
0 Bedroom	1	2
1 Bedroom	1	3
2 Bedrooms	2	5
3 Bedrooms	3	7
4 Bedrooms	4	9
5 Bedrooms	5	11

guideline in this section relate to the number of bedrooms in the unit. Dwelling units will beassigned as follows:

Generally, FH will assign one bedroom to two people; however, FH may consider assigning units as follows:

- Adults of different generations, persons of the opposite sex (other than spouses and significant others), and unrelated adults may not be required to share a bedroom.

- Minor household members of opposite sex regardless of age may be allocated separate bedrooms.
- Minor household members of the same sex with an age difference exceeding ten (10) years may be allocated separate bedrooms.
- Occupants under Foster care may be included in determining unit size based on criteria described in bullets 2 and 3 of this section.
- Live-in attendants will generally be provided a separate bedroom. No additional bedrooms are provided for the attendant's family.
- Space may be provided for a household member who is away at school but who lives with the family during school recesses.
- Spouses will be required to share 1 bedroom.

FH may offer a family a unit that is larger than required by FH's occupancy standards if a wait list for the larger bedroom size has been exhausted.

FH may offer a family a unit that is smaller/larger than requested by the applicant if a wait list for the smaller/larger bedroom size has been exhausted provided the family size falls within the occupancy standard. The family's refusal of the smaller unit will be considered as "just cause" and will not count against them.

All members of the family residing in the unit must be approved by FH. The family must obtain approval of any additional family member before the person occupies the unit except for additions by birth, adoption, or court-awarded custody, in which case the family must inform FH within ten business days.

The temporary absence or addition of a minor household member due to foster care placement may be considered in determining a family's composition, which will then be considered in determining bedroom size. Therefore, the family must inform FH within 10 business days. Failure to notify FH may result in notice of lease violation.

5.2.2 EXCEPTIONS TO OCCUPANCY STANDARDS FOR PersonS with Disability

FH will grant an exception upon request as a reasonable accommodation for persons with disabilities if the need is appropriately verified. (See Chapter 2.3 for more details on RA Requests)

Accessible units will be offered to applicants not in need of accessible features only with the understanding that such applicants must accept a transfer to a non-accessible unit at a later date, if a person with a mobility impairment requiring the unit applies for housing, is determined eligible, and a comparable unit is available for the existing family

5.2.3 Other Circumstances

Circumstances may dictate a larger size than the occupancy standards permit when:

Persons cannot share a bedroom because of a need for medical equipment due to its size and/or function. Verification from a doctor must accompany requests for a larger bedroom to accommodate medical equipment.

Requests based on health-related reasons must be verified by a doctor as to the need for a different size unit.

FH will grant exceptions from the guidelines in cases where it is the family's request or FH determines the exceptions are justified by the relationship, age, sex, health, or disability of family members, or other individual circumstances, and there is a vacant unit available. If an applicant requests to be listed on a smaller or larger bedroom size waiting list, the following guidelines will apply.

Applicants may request to be placed on the interest list for a unit size smaller than designated by the occupancy guidelines, (as long as the unit is not overcrowded according to FH Occupancy Standards and local codes). The family must agree not to request a transfer until they have been admitted and have occupied the unit for 12 months. (Refer to Chapter 12, Transfer Policy for exceptions.)

The family may request to be placed on a larger bedroom size interest list than indicated by the FH's occupancy guidelines. The request must explain the need or justification for a larger bedroom size and must be verified by the FH before the family is placed on the larger bedroom size interest list.

In all cases, where the family requests an exception to the general occupancy standards, FH will evaluate the relationship and ages of all family members and the overall size of the unit.

5.2.4 OCCUPANCY STANDARDS ARE APPLICABLE TO TRANSFERS

When a change in the circumstances of a resident's family requires a change of unit size and the unit is not available at the time requested, the family will be placed on the Transfer List and must be in good standing with FH. Residents on the transfer list may take priority over applicants on the interest list in order to meet occupancy standards and the minimum/maximum occupancy requirements.

The unit considerations in this section should be used as a guide to determine whether and when the bedroom size should be changed. If an unusual situation occurs, which is not currently covered in this policy, the case should be taken to the Agency Designee who will make determination after review of the situation, the individual circumstances, and the verification provided.

5.3 PART II: UNIT OFFERS

5.3.1 UNIT OFFERS

When assigning dwelling units, FH will ensure equal opportunity and non-discrimination on grounds of race, color, sex, religion, familial status, disability, national origin, marital status, actual or perceived sexual orientation, gender identity, or gender expression, in accordance with the Fair Housing Act, HUD's Equal Access Rule, or State, and other local anti-discrimination laws. Unit assignment is based solely on suitable size and type of unit available at the site for which the applicant was selected.

5.3.2 TIME LIMIT FOR UNIT OFFER ACCEPTANCE OR REFUSAL

Applicants must accept or refuse the unit offer within three (3) business days of the date of the unit offer. Offer made by telephone will be confirmed by letter. When an applicant rejects the unit offer, FH will remove the applicant's name from the waiting list by locality (city) for its developments within the City of Fresno. Removal from the waiting list means the applicant must reapply if still interested when the interest list for that locality re-opens.

Once an applicant is housed in a public housing development, his or her name will be removed from all other public housing site-based interest/waiting lists. The applicant will retain their place on any other non-public housing interest list, including housing choice voucher, if applicable.

5.3.3 OFFER OF ACCESSIBLE UNITS [24 CFR 960.206 (B)(2)(C)]

FH has units designed with special features for persons with mobility impairments, referred to as accessible units.

Families who do not require the special features of an accessible unit may be offered these units if there are no eligible applicants requiring these units.

When a vacant accessible unit is available, FH will consider the following before offering the accessible unit to an applicant who does not require the special feature:

- A current occupant of another unit within the development, or other public housing developments, who requires the special features of the vacant unit and has an approved Reasonable Accommodation request.
- An eligible qualified applicant on the waiting list who requires the vacant accessible unit.

When offering an accessible/adaptable unit to an applicant who does not require the special features, FH will require the applicant to sign an Occupancy Waiver agreeing that the applicant will relocate within 30 days to the first available vacant unit of appropriate size, at the same housing development, should the accessible unit be required for an eligible disabled family.

5.3.4 APPLICANTS UNABLE TO TAKE OCCUPANCY

If an applicant is willing to accept the unit offered, but is unable to take occupancy at the time of the offer for "good cause," the applicant will not be removed from the waiting list.

Examples of "good cause" reasons for the refusal to take occupancy of a housing unit include, but are not limited to:

- Unit is not of the appropriate size and type, and the applicant would be able to reside there only temporarily;
- A qualified, knowledgeable health professional verifies the temporary hospitalization or recovery from illness of the principal household member, other household members, or a live-in aide necessary to care for the principal household member;
- The unit is inappropriate for the applicant's disabilities.

- FH has disclosed a death in the unit within the past three (3) years.

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CHAPTER 6 – INCOME AND RENT DETERMINATIONS

[24 CFR PART 5, SUBPARTS E AND F; 24 CFR 960, SUBPART C] INTRODUCTION

6.1 INTRODUCTION

A family's annual income is used to determine their income eligibility for the public housing program and is also used to calculate the amount of the family's rent payment. Fresno Housing will use the policies and methods described in this chapter to ensure that only eligible families receive assistance and that no family pays more or less than its obligation under the regulations. This chapter describes HUD regulations and Fresno Housing policies related to these topics in four parts as follows:

Part I: Annual Income. HUD regulations specify the sources of income which are excluded from the family's annual income. These requirements and FH policies for calculating annual income are found in Part I.

Part II: Assets. HUD regulations specify the types of assets which are excluded from a family's annual income. These requirements and Fresno Housings policies for calculating income from assets are found in Part II.

Part III: Adjusted Income. Once annual income has been established, HUD regulations require the Fresno Housing subtract from annual income any of five mandatory deductions for which a family qualifies and allow the Fresno Housing toadopt additional permissive deductions. These requirements and Fresno Housing policies for calculating adjusted income are found in Part III.

Part IV: Calculating Rent. This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining family rent payment. Also included here are flat rents and the family's choice of rent.

6.2 PART I: ANNUAL INCOME

6.2.1 OVERVIEW [24 CFR 5.609]

Annual income includes:

- All amounts, not specifically excluded in 24 CFR 5.609(b);
- All amounts received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse;
- Unearned income (other than those sources specifically excluded in 24 CFR 5.609(b)) by or on behalf of each dependent who is under 18 years of age; and
- Imputed returns of an asset based on the current passbook savings rate, as determined by HUD, when the value of net family assets exceeds the HUD-published threshold amount (adjusted annually and published in HUD's Inflation-Adjusted Values tables) (which amount HUD will adjust annually) and the actual returns from a given asset cannot be calculated.

In addition to this general definition, the regulations at 24 CFR 5.609(b) provide a comprehensive listing of all sources of income that are excluded from annual income. Note, unlike in previous version of the regulations, the current regulations governing annual income do not list sources of income that are to be included. Instead, HUD relies on the definition of excluded income under 24 CFR 5.609(b) to provide the scope of what is included. To that end, generally, all income is included unless it is specifically excluded by regulation.

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but did not receive. For example, a family's child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders. However, when a family member's wages or benefits are garnished, levied, or withheld to pay restitution, child support, tax debt, student loan debt, or other applicable debts, FH must use the gross amount of the income, prior to the reduction, to determine a family's annual income [Notice PIH 2023-27] Revision 3.

Annual income also includes all actual anticipated income from assets (provided the income is not otherwise excluded) even if the asset itself is excluded from net family assets [Notice PIH 2023-27] Revision 3. 24 CFR 5.603(b)(1) describes HUD regulations for treating specific types of assets.

The full texts of those portions of the regulations are provided in exhibits at the end of this chapter as follows:

- Annual Income Full Definition (Exhibit 6-1)
- Treatment of Family Assets (Exhibit 6-2)
- The Effect of Welfare Benefit Reduction (Exhibit 6-3)

6.2.2 HOUSEHOLD COMPOSITION AND INCOME

Income received by all family members must be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in family composition and income. However, changes can be reported in writing by any adult household member. The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.

Summary of Income Included and Excluded by Person	
Live-in aides	Income from all sources (both earned and unearned) is excluded [24 CFR 5.609(b)(8) as updated for HOTMA].
Foster child or foster adult	Income from all sources (both earned and unearned) is excluded [24 CFR 5.609(b)(8) as updated for HOTMA].
Head, spouse, or cohead Other adult family members	All sources of income not specifically excluded by the regulations are included [24 CFR 5.609(a) as

	updated for HOTMA].
Minors	Earned income of children under 18 years of age is excluded [24 CFR 5.609(b)(3)] as updated for HOTMA. All sources of unearned income, except those specifically excluded by the regulations, are included.
Full-time students 18 years of age or older (not head, spouse, or cohead)	Earned income in excess of the dependent deduction is excluded [24 CFR 5.609(b)(14) as updatd for HOTMA]. All sources of unearned income, except those specifically excluded by the regulations, are included.

Temporarily Absent Family Members

Generally, an individual who is or is expected to be absent from the assisted unit for 60 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 60 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 FH indicating that the student has established a separate household or the family declares that the student has established a separate household i.e., being listed on a rental contractor or signing a new rental agreement outside of the agency.

Absences Due to Placement in Foster Care

Minor household member (s) temporarily absent from the home as a result of placement in foster care are considered members of the family [24 CFR 5.403]. Temporarily absent shall mean up to 18 months.

If a minor household member has been placed in foster care, FH 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 Co-head

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

Family Members Confined for Medical Reasons

If a family member is confined to a nursing home or hospital on a permanent basis, Fresno Housing may determine that that person is no longer a member of the assisted household, and the income of that person is not counted.

Fresno Housing will request verification from a responsible medical professional and will use this to make a determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

When an individual who has been counted as a family member is determined permanently absent, the family is eligible for the medical expense deduction only if the remaining head, spouse, or cohead qualifies as an elderly person or a person with disabilities.

Joint Custody of Children

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, FH will make the determination based on available documents such as court orders, or an IRS return showing which family has claimed the child for income tax purposes. In cases where there is no court order or family does not file income taxes, FH may use school records showing address of child(ren), a Welfare printout showing child(ren) listed in the home, or other creditable documentation.

Caretakers for Minor Household Member(s)

If neither parent remains in the household nor the appropriate agency has determined that another adult is to be brought into the assisted unit to care for the minor household member(s) for an indefinite period, FH will treat the adult as a visitor for the first 30 calendar days. This will be noted as an exception to FH's Visitor Policy.

If by the end of that period, court-awarded custody or legal guardianship has been awarded to the caretaker, and the caretaker qualifies under the Resident Suitability criteria, the lease will be transferred to the caretaker.

If the court has not awarded custody or legal guardianship, but the action is in process, FH will secure verification from social services staff or the attorney as to the status.

FH will transfer the lease to the caretaker, in the absence of a court order, if the caretaker qualifies under the Resident Suitability criteria and has been in the unit for more than 30 days and it is reasonable to expect that custody will be granted.

When FH approves a person to reside in the unit as a caretaker for minor household member (s), the income of the caretaker should be counted pending a final disposition. FH will work with the appropriate service agencies to provide a smooth transition in these cases.

6.2.3 CALCULATION OF INCOME

Basis of Annual Income Projection

Calculation of Income

FH will calculate the family income as follows:

Initial occupancy or assistance and interim reexaminations.

- FH must estimate the income of the family for the upcoming 12-month period:
- To determine family income for initial occupancy or for the initial provision of housing assistance; or
- To determine family income for an interim reexamination of family income under §§ 5.657(c), 960.257(b), or 982.516(c) of this title.

Annual Reexaminations

- FH must determine the income of the family for the previous 12-month period and use this amount as the family's income for annual reexaminations, except where the PHA or owner uses a streamlined income determination under §§ 5.657(d), 960.257(c), or 982.516(b) of this title.
- In determining the income of the family for the previous 12-month period, the FH must take into consideration any redetermination of income during the previous 12-month period resulting from an interim reexamination of family income under §§ 5.657(c), 960.257(b), or 982.516(c) of this title.
- The PHA or owner must make adjustments to reflect current income if there was a change in income during the previous 12-month period that was not accounted for in a redetermination of income.
- When EIV is obtained and the family does not dispute the EIV employer data, based on information provided in the family annual reexamination declaration and family-provided documents, FH will use current tenant-provided documents to project annual wages. When the tenant-provided documents are pay stubs, FH will make every effort to obtain current and consecutive pay stubs dated within the last 60 days.
- FH will obtain written and/or oral third-party verification in accordance with the verification requirements and policy in Chapter 7 in the following cases:
- If EIV or other UIV data is not available,

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

In such cases, FH 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 FH annualized projected income.

When FH cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, suspected fraud, inconsistent benefits amounts for child support, welfare benefits, or unemployment.) FH will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income. Anytime current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases, the family may present information and documentation to FH to show why the historic pattern does not represent the family's anticipated income.

De Minimis Error

FH will not be considered out of compliance due to De Minimis errors in calculating family income where the determination of family's income varies by no more than $30 per month in monthly adjusted income. If the tenant is overcharged rent FH will allow the tenant to choose if they would like to be repaid via check or received a rent credit.

Known Changes in Income example:

If FH verifies an upcoming increase or decrease in income, annual income will be calculated by applying each increase or decrease amount to the appropriate part of the 12-month period.

Example: An employer reports that a full-time employee who has been receiving $8/hour will begin to receive $8.25/hour in the eighth week after the effective date of the reexamination. In such a case the PHA would calculate annual income as follows:

($8/hour × 40 hours × 7 weeks) + ($8.25 × 40 hours × 45 weeks).

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases, FH will calculate annual income using current circumstances and then require an interim reexamination when the change actually occurs. This requirement will be imposed even if the FH policy on reexaminations does not require interim reexaminations for other types of changes.

When tenant-provided third-party documents are used to anticipate annual income, they will be dated within the last 120 days of the reexamination interview date.

EIV quarterly wages will not be used to project annual income at an annual or interim reexamination.

Up-Front Income Verification (UIV) and Income Projection using HUD's Enterprise Income Verification (EIV) System [HUD Notice PIH 2017-12 (HA)]

HUD allows FH to use UIV data as third-party verification of an income source when a resident does not dispute the source. UIV data, however, is generally several months old. Therefore, except in the case of SSA and SSI benefits, which are not subject to frequent or dramatic changes, HUD expects FH to base its income projection on documentation of current circumstances provided by the resident (such as consecutive pay stubs dated within the last 120 days) or by the income source (if FH determines that additional verification is necessary).

FH will use HUD's Enterprise Income Verification (EIV) system in its entirety to verify resident employment and income information during mandatory reexaminations of family composition and income in accordance with 24 CFR 5.236. [See Chapter 7 - Verification Procedures for guidance in accordance with HUD Notice PIH 2017-12 (HA)]

6.2.4 EARNED INCOME

Wages and Related Compensation [24 CFR 5.609(a); Notice PIH 2023-27]

The earned income of each member of the family who is 18 years of age or older, or who is the head of household or spouse/cohead regardless of age, is included in annual income. Income received as a day laborer or seasonal worker is also included in annual income, even if the source, date, or amount of the income varies [24 CFR 5.609 (b)(24)].

Earned income means income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare, social security, and governmental subsidies for certain benefits), or any cash or in-kind benefits [24 CFR 5.100].

A *day laborer* is defined as an individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future [24 CFR 5.603(b)]. Income earned as a day laborer is not considered nonrecurring income and is therefore included in annual income unless otherwise excluded by regulation

A *seasonal worker* is defined as an individual who is hired into a short-term position (e.g., for which the customary employment period for the position is six months or fewer) and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry [24 CFR 5.603(b)]. Some examples of seasonal work include employment limited to holidays or agricultural seasons. Seasonal work may include but is not limited to employment as a lifeguard, ballpark vendor, or snowplow driver [Notice PIH 2023-27]. Income earned as a seasonal worker is not considered nonrecurring income and is therefore included in annual income unless otherwise excluded by regulationFor persons who regularly receive bonuses or commissions, FH will verify and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, FH will use the prior year amounts. In either case, the family may provide, and FH 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, FH will count only the amount estimated by the employer. The file will be documented appropriately.

Military Pay

All regular pay, special pay and allowances of a member of the Armed Forces are counted except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11)].

Athletic Scholarship

The amount received under an "athletic scholarship" designated for housing costs.

Example: A student athlete receives an athletic scholarship of $25,000 per year with $5,000 per year specifically available for housing costs. The PHA would consider the $5,000 in the determination of income.

Earnings of a Minor [24 CFR 5.609(b)(3)]

A minor is a member of the family, other than the head of household or spouse, who is under 18 years of age. Employment income earned by minors is not included in annual income. All other sources of unearned income, except those specifically excluded by the regulations, are included.

Earned Income of Full-Time Students [24 CFR 5.609(b)(14)]

The earned income of a dependent full-time student in excess of the amount of the dependent deduction is excluded from annual income. All sources of unearned income, except those specifically excluded by the regulations, are included.

A family member other than the head of household or spouse/cohead is considered a full-time student if they are attending school or vocational training on a full-time basis [24 CFR 5.603(b)]. Full-time status is defined by the educational or vocational institution the student is attending.

6.2.5 ANNUAL INCOME EXCLUSIONS

Annual income does not include the following:

- Any imputed return on an asset when net family assets total the HUD-published threshold amount (adjusted annually and published in HUD's Inflation-Adjusted Values tables) or less (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and no actual income from the net family assets can be determined.
- The following types of trust distributions:
    - For an irrevocable trust or a revocable trust outside the control of the family or household excluded from the definition of net family assets under 5.603 (b):

- Distributions of the principal or corpus of the trust; and
- Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.
- For a revocable trust under the control of the family or household, any distributions from the trust; except that any actual income earned by the trust, regardless of whether it is distributed, shall be considered income to the family at the time it is received by the trust.
- Earned income of children under 18 years of age.
- Payments received for the care of foster children or foster adults, or State or Tribal kinship or guardianship care payments.
- Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation.
- Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member.
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled.
- Income of a live-in aide, foster child, or foster adult as defined in §§ 5.403 and 5.603, respectively.
- Any assistance that section 479B of the Higher Education Act of 1965, as amended (20 U.S.C. 1087uu), requires be excluded from a family's income; and
- Student financial assistance for tuition, books, and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and other fees required and charged to a student by an institution of higher education (as defined under Section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.
- Student financial assistance, for purposes of this paragraph (9)(ii), means a grant or scholarship received from
- The Federal government;
- A State, Tribe, or local government;
- A private foundation registered as a nonprofit under 24 U.S.C. 501 (c)(3);
- A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or

- An institution of higher education
- Student financial assistance, for purposes of this paragraph (9)(ii), does not include:
- Any assistance that is excluded pursuant to paragraph (b)(9)(i) of this section;
- Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded pursuant to paragraph (b)(9)(i) of this section);
- Gifts, including gifts from family or friends; or
- Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under this paragraph or paragraph (b)(9)(i), exceeds the actual covered costs of the student. The actual covered costs of the student are the actual costs of tuition, books and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, or other fees required and charged to a student by the education institution, and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit. This calculation is described further in paragraph (b)(9)(ii)(E) of this section.

  Student financial assistance, for purposes of this paragraph (b)(9)(ii) must be: Expressly for tuition, books, room and board, or other fees required and charged to a student by the education Institution; Expressly to assist a student with the costs of higher education; or
- Expressly to assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the education institution and not residing in an assisted unit.
- Student financial assistance, for purposes of this paragraph (b)(9)(ii), may be paid directly to the student or to the educational institution on the student's behalf. Student financial assistance paid to the student must be verified by the responsible entity as student financial assistance consistent with this paragraph (b)(9)(ii)
- When the student is also receiving assistance excluded under paragraph (b)(9)(i) of this section, the amount of student financial assistance under this paragraph (b)(9)(ii) is determined as follows:
- If the amount of assistance excluded under paragraph (b)(9)(i) of this section is equal to or exceeds the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, none of the assistance described in this paragraph (b)(9)*ii) of this section is considered student financial assistance excluded from income under this paragraph (b)(9)(ii)(E).
- If the amount of assistance excluded under paragraph (b)(9)(i) of this section is less than the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, the amount of assistance described in paragraph (b)(9)(ii) of this section that is considered student financial assistance excluded under this paragraph is the lower of:

- The total amount of student financial assistance received under this paragraph (b)(9)(ii) of this section , or (ii) the amount by which the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section exceeds the assistance excluded under paragraph (b)(9)(i) of this section.
- Income and distributions form any Coverdell education savings account under section 530 of the Internal Revenue code of 1986 or any qualified tuition program under section 529 of such Code; and income earned by government contributions to, and distributions from, “baby bond” accounts created, authorized, or funded by Federal, State, or local government.
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.
- 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);
- Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;
- Amounts received under a resident service stipend not to exceed $200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the FH, on a part-time basis, that enhances the quality of life in the development.
- Incremental earnings and benefits resulting to any family member from participation in training programs funded by HUD or in qualifying Federal, State, Tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the employment training program unless those amounts are excluded under paragraph (b)(9)(i) of this section.
- 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.
- Earned income of dependent full-time students in excess of the amount of the deduction for a dependent in § 5.611.
- Adoption assistance payments for a child in excess of the amount of the deduction for a dependent in § 5.611.
- Deferred periodic amounts from Supplemental Security Income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a

lump sum amount or in prospective monthly amounts.

- Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance.
- 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.
- Payments made by or authorized by a State Medicaid agency (including through a managed care entity) or other State or Federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit. Authorized payments may include payments to a member of the assisted family through the State Medicaid agency (including through a managed care entity) or other State or Federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family's assisted unit.
- Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car.
- Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other Federal law.
- Amounts that HUD is required by Federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in paragraph (b) of this section apply. HUD will publish a notice in the Federal Register to identify the benefits that qualify for this exclusion. Updates will be published when necessary.
- Replacement housing “gap” payments made in accordance with 49 CFR part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another federally subsidized housing unit. Such replacement housing “gap” payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing “gap” payments.
- Nonrecurring income, which is income that will not be repeated in the coming year based on information provided by the family. Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under this paragraph, even if the source, date, or amount of the income varies. Nonrecurring income includes:
- Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating

in permanent employment.

- Direct Federal or State payments intended for economic stimulus or recovery.
- Amounts directly received by the family as a result of State refundable tax credits or State tax refunds at the time they are received.
- Amounts directly received by the family as a result of Federal refundable tax credits and Federal tax refunds at the time they are received.
- Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries).
- Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.
- Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings. 25) Civil rights settlements or judgments, including settlements or judgments for back pay.
- Income received from any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; except that any distribution of periodic payments from such accounts shall be income at the time they are received by the family.
- Income earned on amounts placed in a family's Family Self Sufficiency Account.
- Gross income a family member receives through self-employment or operation of a business; except that the following shall be considered income to a family member:
- Net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations; and
- 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.
- 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 FH, 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 FH's governing board. No resident may receive more than one such stipend during the same period of time.

State and Local Employment Training Program

Incremental earnings and benefits to any family member resulting from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program [24 CFR 5.609(c)(8)(v)].

FH 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].

FH 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, FH 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 FH's interim reporting requirements.

HUD-Funded Training Programs

Amounts received under training programs funded in whole or in part by HUD [24 CFR 5.609(c)(8)(i)] are excluded from annual income. Eligible sources of funding for the training include operating subsidy, Section 8 administrative fees, and modernization, Community Development Block Grant (CDBG), HOME program, and other grant funds received from HUD.

To qualify as a training program, the program must meet the definition of training program provided above for state and local employment training programs.

Earned Income Tax Credit

Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j)), are excluded from annual income [24 CFR 5.609(c)(17)]. Although many families receive the EITC annually when they file taxes, an EITC can also be received throughout the year. The prorated share of the annual EITC is included in the employee’s payroll check.

6.2.6 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"

To determine business expenses that may be deducted from gross income, FH 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.

Independent Contractors

Income received as an independent contractor is included in annual income, even if the source, date, or amount of the income varies [24 CFR 2.609 (b)(24)].

An *independent contractor* is defined as an individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to the Self-Employment Tax. In general, an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done [24 CFR 5.603(b)]. This may include individuals such as third-party delivery and transportation service providers and "gig workers" like babysitters, landscapers, rideshare drivers, and house cleaners. Income earned as an independent contractor is not considered nonrecurring income and therefore included in annual income unless otherwise excluded by regulation.

Business Expansion

HUD regulations do not permit FH 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, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.

Capital Indebtedness

HUD regulations do not permit FH 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 FH 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 FH 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 a 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, FH 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 Owned by a Business Entity

If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one-third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant) [Notice PIH 2023-27].

6.2.7 STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(B)(9)]

The regulations distinguish between two categories of student financial assistance paid to both full-time and part-time students.

Types of Assistance

The first category is any assistance to students under section 479B of the Higher Education Act of 1965 (Tile IV of the HEA) must be fully excluded from the family's annual income [24 CFR 5.609(b)(9)(i)].

Examples of assistance under title IV of the HEA include:

- Federal Pell Grants;
- Teach Grants;
- Federal Work Study Programs;
- Federal Perkins Loans;
- Income earned in employment and training programs under section 134 of the Workforce Innovation and Opportunity Act (WIOA); or
- Bureau of Indian Affairs/Education student assistance programs

- The Higher Education Tribal Grant
- The Tribally Controlled Colleges or Universities Grant Program

The second category is any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education not otherwise excluded by the Federally mandated income exclusions are excluded [24 CFR 5.609(b)(9)(ii)]. Other student financial assistance received by the student that, either by itself or in combination with HEA assistance, exceeds the actual covered costs is included in income.

Actual covered costs are defined as the actual costs of:

- Tuition, books, and supplies;
- Including supplies and equipment to support students with learning disabilities or other disabilities
- Room and board; and
- Other fees required and charged to a student by the education institution.

For a student who is not the head of household or spouse/cohead, actual covered costs also include the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

Further, to qualify, other student financial assistance must be expressly:

- For tuition, book, supplies, room and board, or other fees required and charged to the student by the education institution;
- To assist a student with the costs of higher education; or
- To assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the educational institution and not residing in an assisted unit.

The student financial assistance may be paid directly to the student or to the educational institution on the student's behalf. However, any student financial assistance paid to the student must be verified by FH.

The financial assistance must be a grant or scholarship received from:

- The Federal government;
- A state, tribal, or local government;
- A private foundation registered as a nonprofit;
- A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- An institution of higher education.

Student financial assistance, does not include:

- Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded under section 479B of the Higher Education Act HEA);
- Gifts, including gifts from family or friends; or
- Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under the HEA, exceeds the actual covered costs of the student.

Calculating Income from Student Financial Assistance [HOTMA Student Financial Assistance Resource Sheet; Notice PIH 2023-27]

If the only financial assistance is received under 479B of the HEA, it is fully excluded. The actual overed costs do not need to be captured or verified. If the financial assistance includes both 479B of the HEA and non-HEA dollar, The formula for calculating the amount of other student financial assistance that is excluded from income always begins with deducting the assistance received under 479B of the HEA from the total actual covered costs, because the 479B assistance is intended to pay the student's actual covered costs. When a student receives assistance from both Title IV of the HEA and from other sources, the assistance received under Title IV of the HEA must be applied to the student's actual covered costs first and then other student financial assistance is applied to any remaining actual covered costs. Once actual costs are covered, any remaining student financial assistance is considered income.

If a student only receives financial assistance under Title IV of the HEA and does not receive any other student financial assistance, the PHA will exclude the full amount of the assistance received under Title IV from the family's annual income. FH will not calculate actual covered costs in this case.

If the student does not receive any assistance under Title IV of the HEA but does receive assistance from another source, the FH will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(ii). The FH will then subtract the total amount of the student's financial assistance from the student's actual covered costs. The FH will include any amount of financial assistance in excess of the student's actual covered costs in the family's annual income.

Example 1

- Actual covered costs: $20,000
- Other student financial assistance: $25,000
- Excluded income: $20,000 ($25,000 in financial assistance - $20,000 in actual covered costs)
- Included income: $5,000

When a student receives assistance from both Title IV of the HEA and from other sources, the FH will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(ii). The assistance received under Title IV of the HEA will be applied to the student's actual covered costs first and then the other student financial assistance will be applied to any remaining actual covered costs.

If the amount of assistance excluded under Title IV of the HEA equals or exceeds the actual covered costs, none of the assistance included under other student financial assistance" would be excluded from income.

Example 2

- Actual covered costs: $25,000
- Title IV HEA assistance: $26,000
- Title IV HEA assistance covers the students entire actual covered costs.
- Other Student Financial Assistance: $5,000
- Excluded income: The entire Title IV HEA assistance of $26,000
- Included income: All other financial assistance of $5,000

If the amount of assistance excluded under Title IV of the HEA is less than the actual covered costs, FH will exclude the amount of other student financial assistance up to the amount of the remaining actual covered costs.

Example 3

- Actual covered costs: $22,000
- Title IV HEA assistance: $15,000
- The remaining amount not covered by Title IV HEA assistance is $7,000 ($22,000 in actual covered costs - $15,000 in Title IV HEA assistance).
- Other Student Financial Assistance: $5,000
- $7,000 in remaining actual covered costs - $5,000 in other financial assistance
- Excluded income: $15,000 entire amount of the Title IV HEA Assistance + $5,000 in other financial assistance
- Included income: $0

Example 4

- Actual covered costs: $18,000
- Title IV HEA Assistance: $15,000
- The remaining amount not covered by Title IV HEA assistance is $3,000 ($18,000 in actual covered costs - $15,000 in Title IV HEA Assistance)
- Other student Financial Assistance: $5,000
- When other student financial assistance is applied, financial assistance exceeds actual covered costs by $2,000 ($3,000 in actual covered costs - $5,000 in other financial assistance).
- Included income: $2,000 (the amount by which the financial aid exceeds the student's actual covered costs).

6.2.9 PERIODIC PAYMENTS [Notice PIH 2023-27]

Periodic payments are forms of income received on a regular basis. HUD regulations specify periodic payments that are not included in annual income. Regulations do not specify which types of periodic payments are included in annual income.

Income that has a discrete end date and will not be repeated beyond the coming year is excluded from a family's annual income because it is nonrecurring income. However, this does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended. For example, a family receives income from a guaranteed income program in their city that has a discrete beginning and end date. While the guaranteed income will be repeated in the coming year, it will end before the family's next annual reexamination. This income is fully excluded from annual income.

Insurance payments and settlements for personal or property losses, including but not limited to payments under health insurance, motor vehicle insurance, and workers' compensation, are excluded from annual income. However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that are received in lieu of wages for workers' compensation are included in annual income. Payments received in lieu of wages for worker's compensation are excluded, even if paid in periodic payments, if the income will last for a period of less than one year.

Lump-Sum Payments for the Delayed Start of a Periodic Payment [24 CFR 5.609(b)(16)]

Deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs (VA) disability benefits that are received in a lump sum amount or in prospective monthly amounts are excluded from annual income.

FH will include in annual income lump sums received as a result of delays in processing periodic payments (other than those specifically excluded by the regulation), such as unemployment or welfare assistance.

When a delayed-start payment is received that is to be included and the family and reports this during the period in which FH is processing an annual reexamination, FH will adjust the family's rent retroactively for the period the payment was intended to cover.

If the delayed-start payment is received outside of the time FH is processing an annual reexamination, then FH will consider whether the amount meets the threshold to conduct an interim reexamination. If so, FH will conduct an interim in accordance with FH policies in Chapter 9. If not, FH will consider the amount when processing the family's next annual recertification.

Retirement Accounts [24 CFR 5.609(b)(26); Notice PIH 2023-27]

Income received from any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals is not considered actual income from assets.

However, any distribution of periodic payments from such accounts is included in annual income at the time they are received by the family.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value.

6.2.10 PERIODIC AND DETERMINABLE ALLOWANCES [24 CFR 5.609(B)(7)

Annual income includes periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing with a resident family.

Alimony and Child Support

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. For example, a family's child-support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders [Notice PIH 2023-27].

The FH will count all regular payments of alimony or child support awarded as part of a divorce or separation agreement unless the family certifies and the FH verifies that the payments are not being made.

> *Family Claims No Payments Being Received:* In order to verify that payments are not being made, the FH will review child support payments over the last three months. If no payments have been made in the past three months and there are no lump sums, the FH will not include alimony or child support in annual income.
>
> *Payments Being Received:* If payments are being made regularly, the FH will use the amount received during the last 12 months (excluding any lump sums received). If payments have been made for a period less than 12 months, the FH will average all payments that have been made.
>
> *Lump Sum Payments:* At new admission or interim recertification, if any lump sum payments were made in the past 12 months, the FH will determine the likelihood of the family receiving another similar payment within the next 12 months before deciding whether or not this amount will be included in the calculation of annual income.

If the FH determines and can appropriately verify that the family in all likelihood will not receive a similar payment, then the amount will not be considered when projecting annual income.

If the FH determines that it is likely that the family will receive a similar payment and can appropriately verify it, the amount will be included when projecting annual income.

Families who do not have court-awarded alimony and/or 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

FH must 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 (can be defined as 3 or more in the last 3 years) 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 FH. For contributions that may vary from month to month (e.g., utility payments), the FH will include an average amount based upon past history.

Regular contributions can be defined as three (3) or more consecutive payments within the last twelve (12) months from the time of initial certification/reexamination.

6.2.11 NONRECURRING INCOME [24 CFR 5.609(B)(24) AND NOTICE PIH 2023-27]

Nonrecurring income, which is income that will not be repeated beyond the coming year (e.g., 12 months following the effective date of the certification) based on information provided by the family, is excluded from annual income. The PHA may accept a self-certification from the family stating that the income will not be repeated in the coming year. See Chapter 7 for PHA policies related to verification of nonrecurring income.

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

Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from a family's annual income as nonrecurring income. This exclusion does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended.

Income amounts excluded under this category may include, but are not limited to:

- Nonrecurring payments made to the family or to a third party on behalf of the family to assist with utilities;
- Payments for eviction prevention;
- Security deposits to secure housing;
- Payments for participation in research studies (depending on the duration); and
- General one-time payments received by or on behalf of the family.

Nonrecurring income that is excluded under the regulations includes:

- Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment [24 CFR 5.609(b)(24)(i)].
- Direct federal or state payments intended for economic stimulus or recovery [24 CFR 5.609(b)(24)(ii)].
- Amounts directly received by the family as a result of state refundable tax credits or state or federal tax refunds at the time they are received [24 CFR 5.609(b)(24)(iii) and (iv)].
- Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries) [24 CFR 5.609(b)(24)(v)].
- Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization [24 CFR 5.609(b)(24)(vi)]. When calculating annual income, PHAs are prohibited from assigning monetary value to non-monetary in-kind donations received by the family [Notice PIH 2023-27]. Non-recurring, non-monetary in-kind donations from friends and family are excluded as non-recurring income.
- Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings [24 CFR 5.609(b)(24)(vii)].

6.2.12 WELFARE ASSISTANCE

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments [24 CFR 5.603(b)].

Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR 5.615]

The FH must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided as Exhibit 6-5. The requirements are summarized below. This rule applies only if a family was a public housing resident at the time the sanction was imposed.

Covered Families

The families covered by 24 CFR 5.615 are those “who receive welfare assistance or other public assistance benefits (‘welfare benefits’) from a State or other public agency (‘welfare agency’) under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance” [24 CFR 5.615(b)]

Imputed Income

When a welfare agency imposes a sanction that reduces a family’s welfare income because the family commits fraud or fails to comply with the agency’s economic self- sufficiency program or work activities requirement, the FH must include in annual income "imputed" welfare income.

FH must request that the welfare agency inform the FH when the benefits of a public housing resident are reduced. The imputed income is the amount the family would have received if the family had not been sanctioned.

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 FH'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 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)].

General Relief [24 CFR5.609]

The maximum amount of General Relief assistance a household can receive is counted as annual income regardless if the assistance is reduced by the welfare agency based on changes to the actual cost of shelter and utilities. For example, if the amount of General Relief assistance is $245.00 and is reduced by actual cost of shelter and utilities to $190.00, the amount used to calculate annual income will be $245.00 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 FH's denial of a family's request to lower rent when the family experiences a welfare benefit reduction, see Chapter 14, Grievances and Appeals.

6.2.13 STATE PAYMENTS TO ALLOW INDIVIDUALS WITH DISABILITIES TO LIVE AT HOME [24 CFR 5.609(b)(19)]

Payments made by or authorized by a state Medicaid agency (including through a managed care entity) or other state or federal agency to an assisted family to enable a member of the assisted family who has a disability to reside in the family's assisted unit are excluded.

Authorized payments may include payments to a member of the assisted family through state Medicaid-managed care systems, other state agencies, federal agencies, or other authorized entities.

The payments must be received for caregiving services a family member provides to enable another member of the assisted family who has a disability to reside in the family's assisted unit. Payments to a family member for caregiving services for someone who is not a member of the assisted family (such as for a relative that resides elsewhere) are not excluded from income.

Furthermore, if the agency is making payments for caregiving services to the family member for an assisted family member and for a person outside of the assisted family, only the payments attributable to the caregiving services for the caregiver's assisted family member would be excluded from income.

6.2.14 CIVIL RIGHTS SETTLEMENTS [24 CFR 5.609(b)(25); FR Notice 2/14/23]

Regardless of how the settlement or judgment is structured, civil rights settlements or judgments, including settlements or judgments for back pay, are excluded from annual income. This may include amounts received because of litigation or other actions, such as conciliation agreements, voluntary compliance agreements, consent orders, other forms of settlement agreements, or administrative or judicial orders under the Fair Housing Act, Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act (Section 504), the Americans with Disabilities Act, or any other civil rights or fair housing statute or requirement.

While these civil rights settlement or judgment amounts are excluded from income, the settlement or judgment amounts will generally be counted toward the family's net family assets (e.g., if the funds are deposited into the family's savings account or a revocable trust under the control of the family or some other asset that is not excluded from the definition of *net family assets*). Income generated on the settlement or judgment amount after it has become a net family asset is not excluded from income. For example, if the family received a settlement or back pay and deposited the money in an interest-bearing savings account, the interest from that account would be income at the time the interest is received.

Furthermore, if a civil rights settlement or judgment increases the family's net family assets such that they exceed the HUD-published threshold amount ($52,787 for 2026), then income will be imputed on the net family assets pursuant to 24 CFR 5.609(a)(2). If the imputed income, which HUD considers unearned income, increases the family's annual adjusted income by 10 percent or more, then an interim reexamination of income will be required unless the addition to the family's net family assets occurs within the last three months of the family's income certification period and FH chooses not to conduct the examination.

6.2.13 ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME

Other exclusions contained in 24 CFR 5.609(b) and FR Notice 1/31/2024 that have not been discussed earlier in this chapter include the following:

- Payments received for the care of foster children or foster adults or state or tribal kinship or guardianship care payments [24 CFR 5.609(b)(4)].
- Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers'

compensation [24 CFR 5.609(b)(5)]. However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that are received in lieu of wages for workers' compensation are included in annual income [Notice PIH 2023-27].

- Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member [24 CFR 5.609(b)(6)].
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled [24 CFR 5.609(b)(7)].
- Income and distributions from any Coverdell education savings account under Section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under Section 529 of such Code [24 CFR 5.609(b)(10)].
- Income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by federal, state, or local government [24 CFR 5.609(b)(10)].
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11)].
- Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance [24 CFR 5.609(b)(17)]. This income exclusion applies only to veterans in need of regular aid and attendance and not to other beneficiaries of the payments, such as a surviving spouse [Notice PIH 2023-27].
- Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car) [24 CFR 5.609(b)(20)]. The loan borrower or co-borrower must be a member of the family for this income exclusion to be applicable [Notice PIH 2023-27].

- Payments received by tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other federal law [24 CFR 5.609(b)(21)]. Generally, payments received by tribal members in excess of the first $2,000 of per capita shares are included in a family's annual income for purposes of determining eligibility. However, as explained in Notice PIH 2023-27, payments made under the Cobell Settlement, and certain per capita payments under the recent Tribal Trust Settlements, must be excluded from annual income in HUD programs that adopt the definitions of *annual income* in 24 CFR 5.609, the Census Long Form, and the IRS Form 1040, including the programs affected by Notice PIH 2023-27.

- Replacement housing "gap" payments made in accordance with 49 CFR Part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another federally subsidized housing unit. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments [24 CFR 5.609(b)(23)].
- Income earned on amounts placed in a family's Family Self-Sufficiency account [24 CFR 5.609(b)(27)].
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred e.g., special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(12)(ii)].
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(b)(12)(i)].
- Amounts received under a resident service stipend not to exceed $200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development [24 CFR 5.600(b)(12)(iii)].

Incremental earnings and benefits to any family member resulting from participation in qualifying training program funded by HUD or in qualifying federal, state, tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program unless those amounts are excluded under 24 CFR 5.609(b)(9)(i) [24 CFR 5.609(b)(12)(iv)].

The FH 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 FH 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, FH 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 FH interim reporting requirements (see Chapter 11).

- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(b)(13)].
- Adoption assistance payments for a child in excess of the amount of the dependent deduction per adopted child [24 CFR 5.609(b)(15)].
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(b)(20)].

- Amounts that HUD is required by federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(b) apply. HUD will publish a notice in the *Federal Register* to identify the benefits that qualify for this exclusion. Updates will be published when necessary [24 CFR 5.609(b)(22)].

  HUD publishes an updated list of these exclusions periodically. The most recent list of exclusions was published in the *Federal Register* on January 31, 2024. 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)). This exclusion also applies to assets.

  (b) Benefits under Section 1780 of the Richard B. Russell School Lunch Act and Child Nutrition Act of 1966, including WIC and reduced-price lunches.

(c) Payments, including for supportive services and reimbursement of out-of-pocket expenses, to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058). This exclusion also applies to assets.

  - Except, the exclusion does not apply when the Chief Executive Officer of the Corporation for National and Community Service determines that the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage then in effect under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) or the minimum wage, under the laws of the State where such volunteers are serving, whichever is the greater (42 U.S.C. 5044(f)(1)).

  (d) Certain 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. 5506)

(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)(1))

(g) Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998 which was reauthorized as the Workforce Innovation and Opportunity Act of 2014 (29 U.S.C. 3241(a)(2)).

(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 Section 6)

(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). This exclusion does not include proceeds of gaming operations regulated by the Commission (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 1965 (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.). This exclusion also applies to assets.

(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 and Thailand service veterans born with spinal bifida (42 U.S.C. 12637(d))

(q) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721). This exclusion also applies to assets.

(r) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Childcare 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). This exclusion applies to assets.

(u) Amounts of student financial assistance funded under Title IV of the Higher Education Act of 1965j, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 programs only, any financial assistance in excess of amounts received by an individual for tuition and any other required fees and charges under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income if the individual is over the age of 23 with dependent children (Pub. L. 109–115, section 327 (as amended)).

(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 that provides medical or other assistance (or payment or reimbursement of the cost of such assistance) under the Victims of Crime Act of 1984 received through a crime victim assistance program, unless the total amount of assistance that the applicant receives from all such programs is sufficient to fully compensate the applicant for losses suffered as a result of the crime (34 U.S.C. 20102(c)).

(x) Any amounts in an "individual development account" are excluded from assets and any assistance, benefit, or amounts earned by or provided to the individual development account are excluded from income, as provided by the Assets for Independence Act, as amended (42 U.S.C. 604(h)(4)).

(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. This exclusion also applies to assets.

(aa) Distributions from an ABLE account, distributions from and certain contributions to an ABLE account established under the ABLE Act of 2014 (Pub. L. 113–295.), as described in Notice PIH 2019–09 or subsequent or superseding notice is excluded from income and assets.

(ab) The amount of any refund (or advance payment with respect to a refundable credit) issued under the Internal Revenue Code is excluded from income and assets for a period of 12 months from receipt (26 U.S.C. 6409).

(ac) Assistance received by a household under the Emergency Rental Assistance Program pursuant to the Consolidated Appropriations Act, 2021 (Pub. L. 116–260, section 501(j)), and the American Rescue Plan Act of 2021.

(ad) Per capita payments made from the proceeds of Indian Tribal Trust Settlements listed in IRS

Notice 2013-1 and 2013-55 must be excluded from annual income unless the per capita payments exceed the amount of the original Tribal Trust Settlement proceeds and are made from a Tribe's private bank account in which the Tribe has deposited the settlement proceeds. Such amounts received in excess of the Tribal Trust Settlement are included in the gross income of the members of the Tribe receiving the per capita payments as described in IRS Notice 2013-1. The first $2,000 of per capita payments are also excluded from assets unless the per capita payments exceed the amount of the original Tribal Trust Settlement proceeds and are made from a Tribe's private bank account in which the Tribe has deposited the settlement proceeds (25 U.S.C. 117b(a), 25 U.S.C. 1407).

(ae) Any amounts (i) not actually received by the family, (ii) that would be eligible for exclusion under 42 U.S.C. 1382b(a)(7), and (iii) received for service-connected disability under 38 U.S.C. Chapter 11 or dependency and indemnity compensation under 38 U.S.C. Chapter 13 (25 U.S.C. 4103(9)(C)) as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub. L. 111–269 section 2) to the definition of income applicable to programs under the Native American Housing Assistance and Self-Determination Act (NAHASDA) (25 U.S.C. 4101 et seq.).

6.3 PART II: ASSETS

6.3.1 ASSETS [24 CFR 5.609(B)(3) AND 24 CFR 5.603(B)]

HUD requires that FH include in annual income the "interest, dividends, and other net income of any kind from real or personal property" [24 CFR 5.609(b)(3)]. This section discusses how the income from various types of assets is determined. For most types of assets, FH will determine the value of the asset in order to compute income from the asset. Therefore, for each asset type, this section discusses:

- How the value of the asset will be determined
- How income from the asset will be calculated

Exhibit 6-1 provides the regulatory requirements for calculating income from assets [24 CFR 5.609(b) (3)], and Exhibit 6-3 provides the regulatory definition of net family assets, which are located at the end of this ACOP under "Exhibits".

Optional policies for family self-certification of assets are found in (Chapter 7 Verification).

General Policies

RESTRICTION ON ASSITANCE BASED ON ASSETS [24 CFR 5.618]

Assistance may not be provided to any family if the family's net assets exceed $100,000 (adjusted annually by HUD) at the time of Annual or Interim Certification. If assets are to exceed $100,000 at the time of annual or interim examination, FH may terminate the family's tenancy.

Income from Assets

FH 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 FH 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) FH believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income but the property is currently vacant, FH can take into consideration past rental income along with the prospects of obtaining a new resident.

Any time current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases the family may present information and documentation to FH to show why the asset income determination does not represent the family's anticipated asset income.

Valuing Assets

The calculation of asset income sometimes requires FH to make a distinction between an asset's market value and its cash value.

- The market value of an asset is its worth (e.g., the amount a buyer would pay for real estate or the balance in 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 [PH OCC GB, p. 121].

Lump-Sum Receipts

Payments that are received in a single lump sum, such as inheritances, capital gains, lottery winnings, insurance settlements, and proceeds from the sale of property, are generally considered assets, not income. However, such lump-sum receipts are counted as assets only if they are retained by a family in a form recognizable as an asset (e.g., deposited in a savings or checking account) [RHIIP FAQs].

Imputing Income from Assets [24 CFR 5.609(b)(3)]

When net family assets are the HUD-published threshold amount (adjusted annually and published in HUD's Inflation-Adjusted Values tables) or less, FH 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 the HUD-published threshold amount (adjusted annually and published in HUD's Inflation-Adjusted Values tables), FH 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 the current HUD- established passbook savings rate.

Actual Income from Assets

Income from assets must be included on the Form HUD-50058 regardless of the amount of income. Actual income from assets is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded by 24 CFR 5.609(b).

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

Fresno Housing may determine the net assets of a family based on a self-certification by the family that the net family assets do not exceed the HUD-published threshold amount (adjusted annually and published in HUD's Inflation-Adjusted Values tables) , without taking additional steps to verify the accuracy of the declaration [24 CFR 5.618(b)]. Policies related to verification of assets are found in Chapter 7 of this policy.

Fresno Housing may not calculate or include any imputed income from assets when net family assets total the HUD-published threshold amount (adjusted annually and published in HUD's Inflation-Adjusted Values tables) or less [24 CFR 5.609(b)(1)]. The actual income from assets must be included on the Form HUD-50058.

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 plan is not counted as income until the family has received payments equal to the amount the family member deposited into the retirement fund.

Jointly Owned Assets

The regulation at 24 CFR 5.609(a) (4) specifies that annual income includes "amounts derived (during the 12-month period) from assets to which any member of the family has access."

If an asset is owned by more than one person and any family member has unrestricted access to the asset, FH 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, FH will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, FH will prorate the asset evenly among all owners.

Assets Disposed of for Less than Fair Market Value [24 CFR 5.603(b)]

FH must include the value of any business or family assets disposed of by an applicant or participant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application or reexamination, as applicable, in excess of the consideration received for the asset. An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value. [Notice PIH 2023-27].

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years.

Minimum Threshold

FH 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 reexamination certifications, the family may request an interim reexamination to eliminate consideration of the asset(s).

Assets placed by the family in non-revocable trusts are considered assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgments.

Separation or Divorce

The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement and the applicant or resident receives important consideration not measurable in dollar terms.

All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

Foreclosure or Bankruptcy

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale.

Family Declaration

Families must sign a declaration form at initial certification and each annual reexamination 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. FH may verify the value of the assets disposed of if other information available to FH does not appear to agree with the information reported by the family.

Asset Limitation

6.3.2 TYPES OF ASSETS

Checking and Savings Accounts [Notice PIH 2023-27]

HUD considers bank accounts as non-necessary items of personal property. Whether or not non-necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

- When the combined value of net family assets is greater than the HUD-published threshold amount, which is adjusted annually and listed in HUD's current year Inflation Adjusted Values tables (52,787 for 2026), checking and/or savings accounts would be counted toward net family assets.
- When the combined value of all non-necessary personal property does not exceed the HUD-published threshold amount, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's checking and/or savings accounts would not be considered when calculating net family assets.

However, actual income from checking and savings accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded.

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, FH will use the current balance. .

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

In determining the anticipated income from an interest-bearing checking or savings account, FH 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 [24 CFR 5.603(b)(1)]

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, FH will use the value of the account on the most recent investment report.

How anticipated income from an investment account will be calculated depends on whether the rate of return is known. For assets that are held in an investment account with a known rate of return (e.g., savings certificates), asset income will be calculated based on that known rate (market value multiplied by rate of earnings). When the anticipated rate of return is not known (e.g., stocks), FH 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, FH will first use the payoff amount of the loan (mortgage) as the unpaid balance to calculate equity. If the payoff amount is not available, the FH 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 section 6-I.F.
- Interests in Indian Trust lands [24 CFR 5.603(b)]
- Real property and capital assets that are part of an active business or farming operation [HCV GB, p. 5-25]

FH 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 purpose of calculating expenses to convert to cash for real property, FH will use ten percent of the market value of the home.

A family may have real property as an asset in two ways: (1) owning the property itself and (2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

In the case of a mortgage or deed of trust held by a family member, the outstanding balance (unpaid principal) is the cash value of the asset. The interest portion only of payments made to the family in accordance with the terms of the mortgage or deed of trust is counted as anticipated asset income.

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 FH 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).

The basis for determining how to treat trusts relies on information about who has access to either the principal in the account or the income from the account. There are two types of trusts, *revocable* and *irrevocable*.

When the creator sets up an *irrevocable trust*, the creator has no access to the funds in the account. Typically, special needs trusts are considered irrevocable. Irrevocable trusts not under the control of any member of the family are excluded from net family assets. The value of the trust continues to be excluded from net family assets so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household [24 CFR 5.603(b)(4)]. Further, where an irrevocable trust is excluded from net family assets, the PHA must not consider actual income earned by the trust (e.g., interest earned, rental income if property is held in the trust) for so long as the income from the trust is not distributed.

A *revocable trust* is a trust that the creator of the trust may amend or end (revoke). When there is a revocable trust, the creator has access to the funds in the trust account.

• A revocable trust that is under the control of the family is included in net family assets when the grantor is a member of the assisted family. If a revocable trust is included in the calculation of net family assets, then the actual income earned by the revocable trust is also included in the family's income. For example, interest earned or rental income if the property is held in the trust. The PHA must calculate imputed income on the revocable trust if net family assets are more than the HUD-published threshold amount, which is adjusted annually and listed in HUD's Inflation Adjusted Values tables ($52,787 for 2026), and actual income from the trust cannot be calculated (e.g., if the trust is comprised of farmland that is not in use).

• A revocable trust that is not under the control of the family is excluded from net family assets. This happens when a member of the assisted family is the beneficiary of a revocable trust, but the grantor is not a member of the assisted family. In this case the beneficiary does not "own" the revocable trust, and the value of the trust is excluded from net family assets. For the revocable trust to be considered excluded from net family assets, no family or household member may be the account's trustee.

For both irrevocable and revocable trusts, if the value of the trust is not considered part of net family assets, then distributions from the trust are treated as follows:

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

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 FH 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.

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].

Necessary and Non-Necessary Personal Property [24 CFR 5.603(b)(3)(i)]

All assets are categorized as either *real property* (e.g., land, a home) or *personal property*.

Personal property includes tangible items, like boats, as well as intangible items, like bank accounts.

The value of necessary items of personal property is excluded from the calculation of net family assets. Necessary items of personal property include a car used for commuting or medical devices.

HUD defines ***necessary personal*** *property* as items essential to the family for the maintenance, use, and occupancy of the premises as a home; or they are necessary for employment, education, or health and wellness. Necessary personal property includes more than merely items that are indispensable to the bare existence of the family. It may include personal effects (such as items that are ordinarily worn or utilized by the individual), items that are convenient or useful to a reasonable existence, and items that support and facilitate daily life within the family's home. Necessary personal property also includes items that assist a household member with a disability, including any items related to disability-related needs, or that may be required for a reasonable accommodation for a person with a disability. Necessary personal property does not include bank accounts, other financial investments, or luxury items. Items of personal property that do not qualify as necessary personal property are classified as non-necessary personal property.

The combined value of all non-necessary items of personal property is only included in annual income when the combined total value exceeds the HUD-published threshold amount (adjusted annually and published in HUD's Inflation-Adjusted Values tables) . When the combined value of all non-necessary personal property does not exceed the HUD-published threshold amount (adjusted annually and published in HUD's Inflation-Adjusted Values tables) as adjusted by inflation, all non-necessary personal property is excluded from net family assets.

While not an exhaustive list, the following table from Notice PIH 2023-27 provides examples of necessary and non-necessary personal property.

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

In determining the value of non-necessary personal property, the Fresno Housing will use the family's estimate of the value. Fresno Housing 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.

Life Insurance *[FR Notice 2/14/23 and Notice PIH 2023-27]*

Net family assets do not include the value of term life insurance, which has no cash value to the individual before death.

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets. The cash value is the surrender value. While the cash value of an insurance policy is considered an asset, the face value of any policy is not. If such a policy earns dividends or interest that the family could elect to receive, the amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

Tax Refunds [24 CFR 5.603(b)(3)(xi) and Notice PIH 2023-27]

All amounts received by a family in the form of federal tax refunds or refundable tax credits are excluded from a family's net family assets for a period of 12 months after receipt by the family.

At the time of an annual or interim reexamination of income, if the federal tax refund was received during the 12 months preceding the effective date of the reexamination, then the amount of the refund that was received by the family is subtracted from the total value of the account in which the federal tax refund or refundable tax credits were deposited. When the subtraction results in a negative number, then the balance of the asset is considered $0.

If the tax refund or refundable tax credit is deposited into another excluded asset, such as a retirement account or a Coverdell Education Savings Account, then the deposit will have no effect on the balance of the asset (i.e., there is no need for the PHA to subtract the amount of the deposit from the value of the excluded asset).

Treatment of Overpayment Deductions from Social Security Benefits

The FH 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, FH must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount [Notice PIH 2012-10]. For all other reductions (student loans, child support, back taxes, or other federal debt) the gross SS benefits are counted. [PIH 2018-24]

Periodic Payments <u>Excluded</u> 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 FH 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.

- 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 [24 CFR 5.609(b) (4)].

6.4 PART III: ADJUSTED INCOME

6.4.1 INTRODUCTION

5.611 *Adjusted income* means annual income (as determined under § 5.609) of the members of the family residing or intending to reside in the dwelling unit, after making the following deductions:

(a) *Mandatory deductions*

(1) $500for each dependent (adjusted annually by HUD, rounded to the next lowest multiple of $25);

(2) $550 for any elderly family or disabled family (adjusted annually by HUD, rounded to the next lowest multiple of $25);

(3) The sum of the following, to the extent the sum exceeds ten percent of annual income:

(i) Unreimbursed health and medical care expenses of any elderly family or disabled family;

(ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed; and

(4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

Additional deductions

For public housing, the Housing Choice Voucher (HCV) and the Section 8 moderate rehabilitation programs (including the moderate rehabilitation Single-Room Occupancy (SRO) program), a PHA may adopt additional deductions from annual income.

Public housing. A PHA that adopts such deductions will not be eligible for an increase in Capital Fund and Operating Fund formula grants based on the application of such deductions. The PHA must establish a written policy for such deductions.

For the HUD programs listed in § 5.601(d), the responsible entity must calculate such other deductions as required and permitted by the applicable program regulations.

This paragraph (c)(2) provides financial relief for an elderly or disabled family or a family that includes a person with disabilities that is experiencing a financial hardship.

Eligibility for relief.

- To receive hardship relief under this paragraph (c)(2), a family must demonstrate that the family's applicable health and medical care expenses or reasonable attendant care and auxiliary apparatus expenses increased or the family's financial hardship is a result of a change in circumstances (as defined by the responsible entity) that would not otherwise trigger an interim reexamination.
- Relief under this paragraph (c)(2) is available regardless of whether the family previously received deductions under paragraph (a)(3) of this section, is currently receiving relief under paragraph (c)(1) of this section, or previously received relief under paragraph (c)(1) of this section.
- Form and duration of relief. The family will receive a deduction for the sum of the eligible expenses in paragraph (a)(3) of this section that exceed 5 percent of annual income.
- The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever comes earlier. However, responsible entities may, at their discretion, extend the relief for one or more additional 90-day periods while the family's hardship condition continues.
- Exemption to continue child care expense deduction. A family whose eligibility for the child care expense deduction is ending may request a financial hardship exemption to continue the child care expense deduction under paragraph (a)(4) of this section. The responsible entity must recalculate the family's adjusted income and continue the child care deduction if the family demonstrates to the responsible entity's satisfaction that the family is unable to pay their rent because of loss of the child care expense deduction, and the child care expense is still necessary even though the family member is no longer employed or furthering his or her education. The hardship exemption and the resulting alternative adjusted income calculation must remain in place for a period of up to 90 days. Responsible entities, at their discretion, may extend such hardship exemptions for additional 90-day periods based on family circumstances.
- Hardship policy requirements. (1) Responsible entity determination of family's inability to pay the rent. The responsible entity must establish a policy on how it defines what constitutes a hardship under paragraphs (c) and (d) of this section, which includes

determining the family's inability to pay the rent, for purposes of Housing Authority of the City of Fresno 20242 HCV Administrative Plan Page 96 determining eligibility for a hardship exemption under paragraph (d) of this section.

- Family notification. The responsible entity must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from the hardship exemption. The notice must also inform the family of when the hardship exemption will begin and expire (i.e., the time periods specified under paragraph (c)(1)(ii) of this section or within 90 days or at such time as the responsibility entity determines the exemption is no longer necessary in accordance with paragraphs (c)(2)(ii)(B) or (d) of this section).

Anticipating Expenses

Generally, FH will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., child care during school and non- school periods and cyclical medical expenses), FH will estimate costs based on historic data and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, FH 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. FH may require the family to provide documentation of payments made in the preceding year.

6.4.2 DEPENDENT DEDUCTION

An allowance of $500 is deducted from annual income for each dependent (which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of $25) [24 CFR 5.611(a)(1)]. *A dependent* is defined as any family member other than the head, spouse, or cohead who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

6.4.3 ELDERLY OR DISABLED FAMILY DEDUCTION

A single deduction of $550 is taken for any elderly or disabled family (which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of $25) [24 CFR 5.611(a)(2)].

An *elderly family* is a family whose head, spouse, cohead, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR 5.403].

6.4.4 HEALTH AND MEDICAL CARE EXPENSES DEDUCTION [24 CFR 5.611(A)(3)(I)

Unreimbursed health and medical care expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed ten percent of annual income.

The health and medical care expense deduction is permitted only for families in which the head, spouse, or co-head is at least 62 or is a person with disabilities. If a family is eligible for a health and medical care expense deduction, the unreimbursed health and medical care expenses of all family members are included.

Definition of Health and Medical Care Expenses

HUD regulations define health and medical care expenses at 24 CFR 5.603 to mean "any cost incurred in the diagnosis, cure, mitigation, treatment or prevention of the disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long term care premiums that are paid or anticipated during the period for which annual income is computed."

FH will use the most current IRS publication 502 as a standard for determining if expenses claimed by eligible families qualify as health and medical care expenses. However, under no circumstances will FH deduct any expenses listed in IRS Publication 502 that do not conform with HUD's definition of health and medical care expenses.

Summary of Allowable Medical Expenses from IRS Publication 502

Services of medical professionals Surgery and medical procedures that are necessary, legal, non-cosmetic Services of medical facilities Hospitalization, long-term care, and in- home nursing services Prescription medicines and insulin, but not nonprescription medicines even if recommended by a doctor Improvements to housing directly related to medical needs (e.g., ramps for a wheel chair, handrails) Medicare Part B and Part D Premiums	Substance abuse treatment programs Psychiatric treatment Ambulance services and some costs of transportation related to medical expenses The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth) Cost and continuing care of necessary service animals Medical insurance premiums or the cost of a health maintenance organization (HMO)
Note: This chart provides a summary of eligible health and medical care 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.	

Before placing health, medical, or disability expense bills and documentation in the tenant file, FH will redact all personally identifiable information.

If the FH receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the person's disability, FH will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to be disposed of, FH will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will the FH include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

Families That Qualify for Both Medical and Disability Assistance Expenses

This policy applies only to families in which the head, spouse, or co-head is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either health and medical care or disability assistance expenses, FH will consider them health and medical care expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6.4.5 DISBABILITY ASSISTANCE EXPENSE [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,

- In combination with any medical expenses, exceed ten 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 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, FH 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 FH 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, 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.

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, FH 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.

FH determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, FH will collect information from organizations that provide services and support to persons with disabilities. A family may present, and FH will consider, the family's justification for costs that exceed typical costs in the area.

6.4.6 CHILD CARE EXPENSE DEDUCTION

HUD defines childcare expenses at 24 CFR 5.603(b) as "amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income."

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 child care 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, FH 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 child care expense being allowed by FH.

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 Childcare Expense Deduction

When a family member looks for work or furthers his or her education, there is no cap on the amount that may be deducted for childcare – although the care must still be necessary and reasonable. However, when childcare enables a family member to work, the deduction is capped by "the amount of employment income that is included in annual income" [24 CFR 5.603(b)].

The earned income used for this purpose is the amount of earned income verified after any income exclusions are applied.

FH must not limit the deduction to the least expensive type of childcare. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB, p. 5-30].

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 FH 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 Childcare Expenses

The type of care to be provided is determined by the resident family. FH 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 child care [VG, p. 26].

Allowable Childcare 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 child care.

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 child care is used to enable a family member to conduct activities that are not eligible for consideration, FH will prorate the costs and allow only that portion of the expenses that is attributable to child care for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. Unless otherwise specified by the childcare provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Necessary and Reasonable Costs

Childcare expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further 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, FH may use the schedule of child care costs from the local welfare agency. Families may present, and the FH will consider, justification for costs that exceed typical costs in the area.

6.4.7 HARDSHIP EXEMPTIONS [24 CFR 5.611(c), (d), and (e)]

Health and Medical Care and Disability Assistance Expenses [24 CFR 5.611(c); Notice PIH 2023-27]

The regulations provide for two types of hardship exemption categories for families that qualify for unreimbursed health and medical care expenses and/or disability assistance expenses. A family will benefit from this hardship exemption only if the family has eligible expenses that can be deducted in excess of five percent of annual income. In order to claim unreimbursed health and medical care expenses, the family must have a head, cohead, or spouse that is elderly or a person with a disability. In order to claim unreimbursed reasonable attendant care and auxiliary apparatus expenses, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed.

Families may be eligible for relief under one of two categories; phased-in relief or general relief, as defined below.

Phased-In Relief

The first category is applicable to all families who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on their most recent income review prior to January 2024. These families will begin receiving a 24-month phased-in relief at their next annual or interim reexamination, whichever occurs first.

For these families, the threshold amount is phased-in as follows:

- The family is eligible for a deduction totaling the sum of expenses that exceeds 5 percent of annual income for the first 12 months.
- At the conclusion of 12 months, the family is eligible for a deduction totaling the sum of their expenses that exceed 7.5 percent of annual income for another 12 months.
- At the conclusion of 24 months, the standard threshold amount of 10 percent would be used, unless the family qualifies for relief under the general hardship relief category.
    - When an eligible family's phased-in relief begins at an interim reexamination, the FH will need to process another transaction one year later to move the family along to the next phase. The transaction can be either an interim reexamination if triggered, or a non-interim reexamination transaction.

Prior to the end of the 24-month period, the family may request a hardship exemption under the second category as described below. If the family is found eligible under the second category, the hardship exemption under the first category ends, and the family's hardship is administered in accordance with the requirements listed below. Once a family requests general relief, the family may no longer receive phased-in relief.

FH must track the 24-month phase-period for each eligible family, even if a family's expenses go below the appropriate phase-in percentage, during the first or second 12-month phase-in period. The phase-in must continue for families who move to another public housing unit at the same FH. When the family is treated as a new admission under a different property/program (e.g., the family moves from public housing to the HCV program), unless FH has a written policy to continue the phased-in relief upon admission, the family's expense deduction will be calculated using the 10-percent threshold unless request for general relief is approved by FH.

FH will not continue the phased-in relief for families who move from the HCV program to public housing. These families will be treated as new admissions and the sum of expenses that exceeds 10 percent of annual income will be used to calculate their adjusted income.

General Relief

The second category is for families that can demonstrate:

- Their health and medical and/or disability assistance expenses increased (other than the transition to the higher threshold); or
- The family's financial hardship is a result of a change in circumstances (as defined in FH policy) that would not otherwise trigger an interim reexamination.

The family may request a hardship exemption under the second category regardless of whether the family previously received the health and medical and/or disability assistance deductions or are currently or were previously receiving relief under the phased-in relief category above.

FH must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. FH must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

To qualify for a hardship exemption, a family must submit a request in writing. The request must show that the family's health and medical and/or disability assistance expenses have increased (other than the transition to the higher threshold) or that the family's financial hardship is a result of a change in circumstances. FH defines *a change in circumstances* as a decrease in income or increase in other expenses that has resulted in the family's financial hardship but does not, on its own, trigger an interim reexamination in accordance with FH policies.

Examples of circumstances constituting a financial hardship may include the following situations:

> The family is awaiting an eligibility determination for a federal, state, or local assistance program, such as a determination for unemployment compensation or disability benefits;
>
> The family's income decreased because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster; or
>
> Other circumstances as determined by the FH.

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, the PHA will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

FH must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions. The notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)].

FH will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

> If FH denies the hardship exemption request, FH notice will also state that if the family does not agree with FH determination, the family may request a hearing.

If the family qualifies for an exemption, FH will include the date the hardship exemption will begin and the date it will expire as well as information on how to request a 90-day extension based on family circumstances.

If the family qualifies, the family will receive a deduction for the sum of eligible expenses that exceed five percent of annual income.

The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever is earlier. However, the PHA may, at its discretion, extend the relief for one or more additional 90-day periods while the family's hardship condition continues. PHAs are not limited to a maximum number of 90-day extensions. PHAs are not limited to a maximum number of 90-day extensions. PHAs must establish written policies regarding the types of circumstances that will allow a family to qualify for a financial hardship and when such deductions may be eligible for additional 90-day extensions. PHAs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The PHA will extend relief for an additional 90-days if the family demonstrates to the PHA's satisfaction that the family continues to qualify for the hardship exemption based on circumstances described above. The PHA will require updated verification based on the family's current circumstances. Additional extension(s) may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the PHA may terminate the hardship exemption if the PHA determines that the family no longer qualifies for the exemption.

Childcare Expense Hardship Exemption [24 CFR 5.611(d) and Notice PIH 2023-27]

A family whose eligibility for the childcare expense deduction is ending may request a financial hardship exemption to continue receiving the deduction. If the family demonstrates to the PHA's satisfaction that the family is unable to pay their rent because of the loss of the child care expense deduction, and that the childcare expense is still necessary even though the family member is not working, looking for work, or seeking to further their education, the PHA must recalculate the family's adjusted income and continue the childcare deduction.

The PHA must develop a policy to define what constitutes a hardship, which includes the family's inability to pay rent. The PHA must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. PHAs must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

For a family to qualify, they must demonstrate that their inability to pay rent would be as a result of the loss of this deduction. The PHA defines this hardship as a potential decrease in income or increase in other expenses that would result from the loss of the child care expense and such loss would impact the family's ability to pay their rent.

Some factors to consider when determining if the family is unable to pay rent may include determining that the rent, utility payment, and applicable expenses (child care expenses or health and medical expenses) are more than 40 percent of the family's adjusted income, or verifying whether the family has experienced unanticipated expenses, such as large medical bills, that have affected their ability to pay their rent.

The family must also demonstrate that the child care expense is still necessary even though the family member is no longer employed or furthering their education. The PHA will consider qualification under this criterion on a case-by case basis (for example, if the family member who was employed has left their job in order to provide uncompensated care to an elderly friend or family member who is severely ill and lives across town).

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, the PHA will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

FH must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions.

If FH denies the request, the notice must specifically state the reason for the denial. FH must provide families 30 days' notice of any increase in rent.

If FH approves the request, the notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)]. The notice must also state the requirement for the family to report to the PHA if the circumstances that made the family eligible for relief are no longer applicable and that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption [Notice PIH 2023-27].

FH will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

> If the PHA denies the hardship exemption request, the PHA notice will also state that if the family does not agree with the PHA determination, the family may request a grievance hearing.
>
> If the family qualifies for an exemption, the PHA will all required information listed above as well as information on how to request a 90-day extension based on family circumstances.

If the family qualifies, the hardship exemption and the resulting alternative adjusted income calculation must remain in place for a period of up to 90 days.

FH may, at its discretion, extend the hardship exemptions for additional 90-day periods based on family circumstances and as stated in PHA policies. PHAs are not limited to a maximum number of 90-day extensions. FH must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

FH must promptly notify families in writing if they are denied either an initial hardship exemption or an additional 90-day extension of the exemption. If FH denies the request, the notice must specifically state the reason for the denial.

FH must notify the family if the hardship exemption is no longer necessary and the hardship exemption will be terminated because the circumstances that made the family eligible for the exemption are no longer applicable. The notice must state the termination date and provide 30 days' notice of rent increase, if applicable.

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. FH will extend relief for an additional 90-days if the family demonstrates to FH satisfaction that the family continues to qualify for the hardship exemption. FH will require updated verification based on the family's current circumstances. Additional extensions may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, FH may terminate the hardship exemption if FH determines that the family no longer qualifies for the exemption.

6.5 PART IIII: CALCULATING RENT

6.5.1 OVERVIEW OF INCOME-BASED RENT CALCULATIONS

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

TTP Formula [24 CFR 5.628]

HUD regulations specify the formula for calculating the total tenant 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 (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- The welfare rent (in as-paid states only) **[24 CFR 5.628]**
- A minimum rent $25 **[24 CFR 5.630]**
- The alternative non-public housing rent, as determined in accordance with 24 CFR 960.102

Utility Reimbursement [24 CFR 960.253(c) (3)]

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

FH may make all utility reimbursement payments to qualifying families on a monthly basis or may make quarterly payments when the monthly reimbursement amount is $15.00 or less. Payments must be prorated if the family leaves the program in advance of its next quarterly reimbursement. Reimbursements must be made once per calendar-year quarter. The FH will allow a hardship exemption policy for families whom are receiving a quarterly reimbursement if receiving such payment would create a financial hardship for the family. The FH must issue reimbursements that exceed $15.00 per month on a monthly basis

6.5.2 FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]

FH will grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the FH determines that a hardship exists, the TTP is the highest of the remaining components of the family's calculated TTP.

HUD-Defined Financial Hardship

Financial hardship includes the following situations:

The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.

For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following implementation of assistance, if approved, or the decision to deny assistance.

A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

- The family would be evicted because it is unable to pay the minimum rent.
- For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent or tenant-paid utilities.
- Family income has decreased because of changed family circumstances, including the loss of employment.
- A death has occurred in the family. In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).

Implementation of Hardship Exemption Determination of Hardship

When a family requests a financial hardship exemption, FH must suspend the minimum rent requirement beginning the first of the month following the family's request.

FH then determines whether the financial hardship exists and whether the hardship is temporary or long-term. FH defines temporary hardship as a hardship expected to last 90 days or less. Long-term hardship is defined as a hardship expected to last more than 90 days.

FH may not evict the family for nonpayment of minimum rent during the 90-day period beginning the month following the family's request for a hardship exemption.

When the minimum rent is suspended, the TTP reverts to the highest of the remaining components of the calculated TTP. The example below demonstrates the effect of the minimum rent exemption.

Example: Impact of Minimum Rent on TTP Calculations

A family receives $3,000 annually, or $250 monthly, in welfare assistance. The family has three children and no other deductions. The dependent deduction for the three children amounts to $500× 3 = $1,500 , so the family's annual adjusted income is $3,000 – $1,500= $1,500, making its monthly adjusted income $1,500 ÷ 12 = $125. The family's utility allowance is $65. The welfare rent is not applicable.

With Minimum Rent of $0		With Minimum Rent of $50	
TTP equals the greatest of:		TTP equals the greatest of:	
$39	Monthly adjusted income × 0.30	$39	Monthly adjusted income × 0.30
$25	Monthly gross income × 0.10	$25	Monthly gross income × 0.10
N/A	Welfare rent (N/A)	N/A	Welfare rent (if applicable)
$0	Minimum Rent	$50	Minimum Rent
$39	TTP	$50	TTP
–65	Utility allowance	–65	Utility allowance
$26	Utility reimbursement	$15	Utility reimbursement

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family’s ability to pay the minimum rent.

FH will make the determination of the hardship within 30 calendar days.

No Financial Hardship

If FH determines there is no financial hardship, the FH will reinstate the minimum rent and require the family to repay the amounts suspended.

FH will require the family to repay the suspended amount within 30 calendar days of the FH’s notice that a hardship exemption has not been granted.

Temporary Hardship

If FH determines that a qualifying financial hardship is temporary, FH must reinstate the minimum rent from the beginning of the first of the month following the date of the family’s request for a hardship exemption.

The family must resume payment of the minimum rent and must repay FH the amounts suspended. HUD requires the FH to offer a reasonable repayment agreement, on terms and conditions established by FH. FH also may determine that circumstances have changed and the hardship is now a long-term hardship.

FH will enter into a repayment agreement in accordance with the FH's repayment agreement policy.

Long-Term Hardship

If the FH determines that the financial hardship is long-term, the FH must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family’s request until the end of the qualifying hardship.

When the financial hardship has been determined to be long- term, the family is not required to repay the minimum rent.

The hardship period ends when any of the following circumstances apply:

- At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.
- For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a $60/month child support payment, the hardship will continue to exist until the family receives at least $60/month in income from another source or once again begins to receive the child support.
- For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

6.5.3 UTILITY ALLOWANCES [24 CFR 965, SUBPART E]

Utility allowances are provided to families paying income-based rent and/or families who elect to pay flat rent for their unit size when the cost of utilities is not included in the rent. When determining a family's income-based rent, the FH must use the utility allowance applicable to the type of dwelling unit leased by the family. (see Chapter 16)

Revised 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.

Reasonable Accommodation [24 CFR 8]

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

Residents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability [PH Occ GB, p. 172]. See Chapter 2 for policies related to reasonable accommodations.

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

- Subtract the TTP from the flat applicable to the unit. The result is the maximum subsidy for which the family could qualify if all members were eligible.

- Divide the family maximum subsidy by the number of persons in the family to determine the maximum subsidy per each family member who is eligible (member maximum subsidy).
- Multiply the member maximum subsidy by the number of eligible family members.
- Subtract the subsidy calculated in the last step from the flat rent. This is the prorated TTP.
- Subtract the utility allowance for the unit from the prorated TTP. This is the prorated rent for the mixed family.

The revised public housing flat rents will be applied to a family's rent calculation at the first annual reexamination after the revision is adopted.

When the mixed family's TTP is greater than the applicable flat rent, the FH must use the mixed family's TTP to calculate the prorated rent. The mixed family's TTP minus the utility allowance is the prorated rent.

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

Flat Rents [24 CFR 960.253(b)]

The flat rent is designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self- sufficient.

Policy related to the reexamination of families paying flat rent are located in Chapter 9.

Flat Rent Appendix A, adopted June 1, 2015

The FH hereby amends its flat rent policies to comply with the statutory changes contained within, Public Law 113-76, the Fiscal Year 2014 Appropriation Act.

The FH will set flat rental amount for each public housing unit that complies with the requirement that all flat rents be set at no less than 80 percent of the applicable Fair Market Rent (FMR) adjusted, if necessary, to account for reasonable utilities costs. The new flat rental amount will apply to all new program admissions effective October 1, 2014. For current program participants that pay the flat rental amount, the new flat rental amount will be offered, as well as the income-based rental amount, at the next annual rent option.

The FH will place a cap on any increase in a family's rental payment that exceeds 35 percent, and is a result of changes to the flat rental amount as follows:

- Multiply the existing flat rental payment by 1.35 and compare that to the updated flat rental amount;
- The PHA will present two rent options to the family as follows:
- The lower of the product of the calculation and the updated flat rental amount; and
- The income based rent.

When the family elects to pay the flat rent, the flat rent amount quoted to the family by the FH;

minus the utility allowance for the dwelling unit, is the amount the family pays. Changes in family income, expenses, or composition will not affect the flat rent amount because it is outside the income-based formula.

Family Choice in Rents [24 CFR 960.253(a) and (e)]

Once each year, the FH must offer families the choice between a flat rent, income-based rent and minimum rent. The family may not be offered this choice more than once a year.

During the annual reexamination interview the FH will provide the family with the (LHA form No.19a) Resident's Rent Choice Determination, on which the family will indicate whether they choose flat rent, income-based rent, or minimum rent. The FH rent choice form will state what the flat rent would be, and an estimate, based on current information, what the family's income-based rent would be or the $25 minimum rent (if applicable). The Residents' Rent Choice Determination form will be retained in the resident's file. This information will include the FH's policy on switching from flat rent to income-based rent due to financial hardship.

However, if the family chose the flat rent for the previous year the FH 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.

In accordance with PIH Notice 2016-05, Streamline Rule – Public Housing rents for Mixed Families - When the mixed family's TTP is greater than the applicable flat rent, the FH must use the mixed family's TTP to calculate the prorated rent. The mixed family's TTP minus the utility allowance is the prorated rent.

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 FH determines that a financial hardship exists, the FH must immediately allow the family to switch from flat rent to the income-based rent.

Upon determination by the FH that a financial hardship exists, the FH 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, child care, transportation, education, or similar items
- Such other situations determined by the FH to be appropriate

FH considers payment of flat rent to be a financial hardship whenever the switch to income-based rent would be lower than the flat rent [PH OCC GB, p. 137].

Change in Flat Rents

Changes to flat rents, up or down, will not affect families paying flat rent until their next annual flat rent offer, at which time the family will be given the choice of switching back to income-based rent or of remaining on flat rent at the current (most recently adjusted) flat rent for their unit [PH OCC GB, pp. 137-138].

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CHAPTER 7 – VERIFICATION

[24 CFR 960.259, 24 CFR 5.230, NOTICE PIH 2023-27

7.1 INTRODUCTION

This chapter explains FH's procedures and standards for verification of preferences, income, assets, allowable deductions, family status, and when there are changes in family members. The FH's verification procedures are designed to meet HUD's requirements that the factors of eligibility and Total Tenant Payment be verified and that the FH maintain program integrity. Applicants and residents must furnish proof of their statements whenever required by the FH, and the information they provide must be true and complete. The FH will ensure that proper authorization for release of information is always obtained from the family before making verification inquiries.

FH will follow the verification guidance provided by HUD in Notice PIH 2023-27 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary FH policies.

In addition, before sending for verification from independent sources, FH will utilize Upfront Income Verifications to verify income and, conduct face-to-face appointments to discuss any discrepancies with the family at the time of the certification interview.

7.2 PART I: 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 FH or HUD determines is necessary to the administration of the program and must consent to the FH verification of that information [24 CFR 960.259(a)(1)].

Consent Forms

Form HUD-9886 [24 CFR 5.230(b)(1), (b)(2), (c)(4), and (c)(5); Notice PIH 2023-27]

All adult applicants and tenants must sign form HUD-9886, Authorization for Release of Information. All adult family members (and the head and spouse/cohead regardless of age) are required to sign the Form HUD-9886 at admission. Participants, prior to January 1, 2024, signed and submitted Form HUD-9886 at each annual reexamination. HOTMA eliminated this requirement and instead required that the Form HUD-9886 be signed only once. On or after January 1, 2024 current program participants must sign and submit a new Form HUD-9886 at their next interim or annual reexamination. This form will only be signed once. Another Form HUD-9886 will not be submitted to FH except under the following circumstances:

- When any person 18 years or older becomes a member of the family;
- When a current member of the family turns 18; or
- As required by HUD or FH in administrative instructions.

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 FH 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.

The executed form will remain effective until the family is denied assistance, assistance is terminated, or the family provides written notification to FH to revoke consent.

Penalties for Failing to sign Consent form [24 CFR 5.232]

If any family member who is required to sign a consent form fails to do so, FH will deny admission to applicants and terminate the lease of residents. The family may request a hearing in accordance with FH grievance procedures.

FH has established a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance in accordance with FH policy.

In order for a family to revoke their consent, the family must provide written notice to FH.

Within 10 business days of the date the family provides written notice, the FH will send the family a notice acknowledging receipt of the request and explaining that revocation of consent will result in denial or termination of assistance, as applicable. At the same time, FH will notify the local HUD office.

7.2.2 SAFE HARBOR- USE OF OTHER PROGRAMS' INCOME DETERMINATIONS [24 CFR 5.609(c)(3) AND NOTICE PIH 2023-27]

When available and applicable, FH will accept other programs' Safe Harbor determinations of income at annual reexamination to determine the family's total annual income. FH will still require third-party verification of all deductions such as the health and medical care expense or child care expense deductions. Further, if the family is eligible for and claims the disability assistance expense or child care expense deductions, where applicable, FH will obtain third-party verification of the amount of employment income of the individual(s) enabled to work in order to cap the respective expenses as required.

Prior to using any Safe Harbor determination from another program, FH will ask the family if they agree with the income amounts listed. If the family disputes the income amounts on the Safe Harbor determination, FH will obtain third-party verification of all sources of income and assets (as applicable).

FH will not accept other programs' determinations of income for any new admission or interim reexamination.

With the exception of income determinations made under the Low-Income Housing Tax Credit (LIHTC) program, FH will accept Safe Harbor determinations from any of the programs listed above.

In order to be acceptable, the income determination must:

Be dated within 12 months of the dates listed above;

State the family size;

Be for the entire family (i.e., the family members listed in the documentation must match the family's composition in the assisted unit, except for household members); and

Must state the amount of the family's annual income.

The determination need not list each source of income individually. If FH does not receive any acceptable income determination documentation or is unable to obtain documentation, then FH will revert to third-party verification of income for the family.

Means-tested federal public assistance programs include:

- Temporary Assistance for Needy Families (TANF) (42 U.S.C. 601, et seq.);
- Medicaid (42 U.S.C. 1396 et seq.);
- Supplemental Nutrition Assistance Program (SNAP) (42 U.S.C. 2011 et seq.);
- Earned Income Tax Credit (EITC) (26 U.S.C. 32);
- Low-Income Housing Credit (LIHTC) program (26 U.S.C. 42);
- Special Supplemental Nutrition Program for Woman, Infants, and Children (WIC) (42 U.S.C. 1786);
- Supplemental Security Income (SSI) (42 U.S.C. 1381 et seq.);
- Other programs administered by the HUD Secretary;
- Other means-tested forms of federal public assistance for which HUD has established a memorandum of understanding; and
- Other federal benefit determinations made in other forms of means-tested federal public assistance that the Secretary determines to have comparable reliability and announces through the *Federal Register.*

If FH elects to use the annual income determination from one of the above-listed forms of means-tested federal public assistance, then they must obtain the income information by means of a third-party verification. The third-party verification must state the family size, must be for the entire family, and must state the amount of the family's annual income. The annual income need not be broken down by family member or income type. Annual income includes income earned from assets, therefore when using Safe Harbor to verify a family's income, FH will neither further inquire about a family's net family assets, nor about the income earned from those assets, except with respect to whether or not the family owns assets that exceed the asset limitation in 24 CFR 5.618. The Safe Harbor documentation will be considered acceptable if any of the following dates fall into the 12-month period prior to the receipt of the documentation by FH:

- Income determination effective date;

- Program administrator's signature date;
- Family's signature date;
- Report effective date; or
- Other report-specific dates that verify the income determination date.

The only information that FH is permitted to use to determine income under this method is the total income determination made by the federal means-tested program administrator. Other federal programs may provide additional information about income inclusions and exclusions in their award letters; however, these determinations and any other information must not be considered by the FH. FH is not permitted to mix and match Safe Harbor income determinations and other income verifications.

If FH is unable to obtain Safe Harbor documentation or if the family disputes the other program's income determination, FH must calculate the family's annual income using traditional methods as outlined in Notice PIH 2023-27 and this chapter.

If FH uses a Safe Harbor determination to determine the family's income, the family is obligated to report changes in income that meet the FH's reporting requirement and occur after the effective date of the transaction.

The amounts of unreimbursed reasonable attendant care expenses and child-care expenses deducted from a family's annual income, except for when a family is approved for a child-care expense hardship exemption, must still be capped by the amount earned by any family member who is enabled to work as a result of the expense. FH is therefore required to obtain third-party verification of the applicable employment income and cap the respective expense deductions accordingly.

7.2.3 ITEMS TO BE VERIFIED [24 CFR 982.516]

The following is a list of items, which must be verified at the time of initial eligibility.

- All income both cash and non-cash not specifically excluded by the regulations.
- Zero-income applicants and residents will be required to complete a family expense form at each certification or reexamination interview when all member(s) is/are reporting zero-income.
- Full-time student status including high school students who are 18 or over at the time of initial or annual eligibility.
- Current assets including assets disposed of for less than fair market value in the last preceding two (2) years.
- Child-care expense where it allows an adult family member to be employed or to further his/her education.
- Total medical expenses of all family members in households whose head or spouse is elderly or disabled.
- Disability assistance expenses to include only those costs associated with attendant care or auxiliary apparatus that allow an adult family member to be employed.
- Disability status for determination of preferences, allowances or deductions.
- Legal identity of all family members.
- U.S. citizenship/eligible immigrant status.
- Social Security Numbers for all family members.
- “Preference” status based upon FH preferences.
- Family/marital status when needed for head of household or spouse definition (Refer to Section 7.11).
- Verification of reduction in benefits for noncompliance in certain programs, such as Welfare to Work sanctions of CalWORKs benefits.
- The FH will obtain written verification from the welfare agency stating that the family’s benefits have been reduced for fraud or noncompliance for determination of imputed income and before denying the family’s request for rent reduction.
- Verification of foster adults/children from the placement agency
- Verification of being the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.
- Verification of participation in a federal, state or local training program that is generating income.

All items above will be verified at annual eligibility with the exception of the following:

- Legal identity of all family members.
- U.S. Citizenship/eligibility immigrant status.
- Social Security Number for all family members.
- “Preference” status based upon FH preferences.

7.2.4 USE OF HUD’S ENTERPRISE INCOME VERIFICATION (EIV) SYSTEM

The FH will use HUD’s Enterprise Income Verification (EIV) system in its entirety to verify resident’s employment, earned income, unemployment benefits, social security (SS), and supplemental security income (SS) benefits information during mandatory reexaminations of family composition and income in accordance with 24 CFR 5.236.

The EIV system contains two main components: *income reports* and *income discrepancy reports*.

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 FH 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. When the family does not dispute the EIV data, income reports may be used to meet the regulatory requirement for third-party verification.

Income and IVT reports will be used in interim reexaminations when necessary to verify employment income, unemployment benefits, and SS/SSI benefits and 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 FH determines through EIV reports and independent third-party verification that a family has concealed or underreported income, corrective action will be taken pursuant to the policies in Chapter 15, “Program Integrity.

Income Validation Tool (IVT) [PIH Notice 2018-18]

The Income Validation Tool (IVT) is a tool for identifying families that may have concealed or underreported income. Data in the IVT report represents income for past reporting periods and may be between 6 and 36 months old at the time the report is generated.

Families that have not concealed or underreported income may appear on the IVT report in some circumstances, such as loss of a job or addition of new family members.

The FH will generate and review IVT monthly. The IVT report threshold percentage will be adjusted as necessary based on the findings in the IVT.

In reviewing IVT, FH will begin with the largest discrepancies.

When the FH determines that a resident appearing on the IVT report has not concealed or underreported income, the resident's name will be placed on a list of "false positive" reviews. To avoid multiple reviews in this situation, residents appearing on this list will be eliminated from IVT processing until a subsequent interim or annual reexamination has been completed.

When it appears that a family may have concealed or underreported income, FH will request independent third party written verification of the income in question.

When FH determines through IVT review and independent third-party verification that a family has concealed or underreported income, corrective action will be taken pursuant to the policies in Chapter 15, "Program Integrity.

EIV Identity Verification

The EIV system verifies resident identities against Social Security Administration (SSA) records. These records are compared to Public and Indian Housing Information Center (PIC) data for a match on social security number, name, and date of birth.

FH is required to use EIV's Identity Verification Report on a Monthly basis to improve the availability of income information in EIV [Notice PIH 2018-18].

When identity verification for a resident fails, a message will be displayed within the EIV system and no income information will be displayed.

FH will identify residents whose identity verification has failed as part of the annual reexamination process.

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

7.2.5 HUD'S VERIFICATION HIERARCHY [NOTICE PIH2023-27]

FH will access the EIV system and obtain an Income Report for each household during their reexamination process on a monthly basis. FH will maintain the Income Report in the resident file along with the form HUD-50058 and other supporting documentation to support income and rent determination for all mandatory annual reexamination of family income and composition.

Income and IVT reports will be compared to family-provided information as part of the annual reexamination process. When the family does not dispute the EIV data, income reports may be used to meet the regulatory requirement for third-party verification.

Income and IVT reports will be used in interim reexaminations when necessary to verify employment income, unemployment benefits, and SS/SSI benefits and to verify that families claiming zero income are not receiving income from any of these sources.

If the Income Report does not contain any employment and income information for the family, the

FH will attempt the next lower level verification technique, as noted in the chart below.

Level	Verification Technique	Ranking
6	**Upfront Income Verification (UIV)** using HUD's Enterprise Income Verification (EIV) system and Income Validation Tool (IVT) (not available for income verifications of applicants)	**Highest** (Mandatory)
5	Upfront Income Verification (UIV) using non-HUD system	**Highest** (Optional)
4	Written Third Party Verification from the source, also known as "tenant-provided verification" or EIV plus self-certification	**High** (Mandatory to supplement EIV- reported income sources and when EIV has no data; (mandatory) for non- EIV reported income sources;(mandatory) when resident disputes EIV-reported employment and income information **and** is unable to provide acceptable documentation to support the dispute)
3	Written Third Party Verification form	**Medium-Low** (Mandatory if written third party verification documents are not available or rejected by FH; and when the applicant or resident is unable to provide acceptable documentation)
2	Oral Third Party Verification form	**Low** (Mandatory if written third party verification is not available)
1	Self-certification	**Low** (Use as a last resort when unable to obtain any type of third party verification)

Note: This verification hierarchy applies to income determinations for applicants and participants. However, EIV is not available for verifying income of applicants.

Verification Techniques Definitions

Level 5 and 6 Verification: Up-Front Income Verification (UIV)):

Up-front income verification (UIV) refers to the FH's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits for a number of individuals. FH may use UIV sources before or during a family reexamination.

UIV will be used to the extent that these systems are available to FH.

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 FH has independently verified the UIV information and the family has been granted the opportunity to contest any adverse findings through the FH's informal review/hearing processes.

HUD’s Enterprise Income Verification (EIV) System

FH must use HUD’s EIV system in its entirety as a third-party source to verify tenant employment and income information during annual and streamlined reexaminations of family composition and income in accordance with 24 CFR 5.236 and Notice PIH 2023-27.

HUD’s EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families.

The income validation tool (IVT) in EIV provides projections of discrepant income for wages, unemployment compensation, and SSA benefits pursuant to HUD’s data sharing agreements with other departments.

The following policies apply to the use of HUD’s EIV system.

EIV Income and IVT Reports

FH is required to obtain an EIV Income and IVT report for each family any time FH conducts an annual reexamination. However, FH is not required to use the EIV Income and IVT reports:

- At annual reexamination if the FH used Safe Harbor verification from another means-test federal assistance program to determine the family’s income; or
- During any interim reexaminations.

The EIV Income and IVT Reports are also not available for program applicants at admission.

When required to use the EIV Income Report, in order for the report to be considered current, FH must pull the report within 120 days of the effective date of the annual reexamination.

The EIV Income Report may be used to verify and calculate income at annual reexamination if the family self-certifies that the amount is accurate and representative of current income. The family must be provided with the information in EIV.

Except for when Safe Harbor verification from another means-tested federal assistance program is used to determine the family’s annual income, FH will obtain EIV Income and IVT reports for all annual reexaminations for all families on a monthly basis. Reports will be generated as part of the regular reexamination process. FH will ensure that all EIV Income Reports are pulled within 120 days of the effective date of the annual reexamination.

Income and IVT reports will only be used for interim reexaminations as necessary. For example, EIV may be used to verify that families claiming zero income are not receiving income from any sources listed in EIV.

Income and IVT reports will be retained in resident files with the applicable annual documents or interim reexamination documents (if applicable) for the duration of tenancy.

When FH 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.

Level 4 Verification: EIV + Self-Certification and Written-Third Party Verification [Notice PIH 2023-27]

HUD identifies two types of Level 4 verification: written-third party verification from the source and EIV + self-certification.

EIV + Self-Certification

EIV may be used as written third-party verification and may be used to calculate income if the family agrees with the information in EIV and self-certifies that the amount is accurate and representative of current income. This practice is known as *EIV + self-certification*. When calculating income using this method, FH may use its discretion to determine which method of calculation is reasonable: the last four quarters combined or an average of any number of quarters. The family must be provided with the information from EIV.

At annual reexamination, if FH is unable to use a determination of income from a means-tested federal assistance program and if there are no reported changes to an income source, FH will use EIV + self-certification as verification of employment income, provided the family agrees with the amounts listed in EIV.

FH will use an average of the last two quarters of income listed in EIV to determine income from employment. FH will provide the family with the information in EIV. The family will be required to sign a self-certification stating that the amount listed in EIV is accurate and representative of current income. If the family disagrees with the amount in EIV, the amount is not reflective of current income, or if less than two quarters are available in EIV, FH will use written third-party verification from the source as outlined below.

FH will not use this method of verification at new admission since EIV is not available for applicant families or at interim reexamination since the income information in EIV is not current.

Written Third-Party Verification from the source

Written, third-party verification from the source is also known as “tenant-provided verification.” In order to qualify as written-third party verification from the source, the documents must be original or authentic and (generally) dated within 120 days of the date received by FH. For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation. Documents may be supplied by the family or received from a third-party source.

Examples of acceptable tenant-provided documents include, but are not limited to pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices. Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.) are an acceptable form of written, third-party verification.

FH is required to obtain, at minimum, two current and consecutive pay stubs when calculating income using third-party verification from the source. For new income sources or when two pay stubs are not available, FH should determine income based on the information from a traditional written, third-party verification form or the best available information.

When the family disputes EIV-reported employment income, FH uses written third-party verification.

When verification of assets is required, FH is required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

In general, FH will use third-party verification from the source in the following circumstances:

At annual reexamination when EIV + self-certification is not used;

For all new admissions; and

For all interim reexaminations.

FH will not use this method if the FH is able to use an income determination from a means-tested federal assistance program or if FH uses EIV + self-certification as outlined above.

In general, third-party documents provided by the family or the source must be dated within 120 days of the date received by FH. However, for fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation.

FH may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible. If FH determines that third-party documents provided by the family are not acceptable, FH will explain the reason to the family and request additional documentation from the family or will use a lower form of verification such as a written third-party verification form.

When verification of assets held by a banking or financial institution is required, FH will obtain one statement that reflects the current balance of the account.

When pay stubs are used, FH will require the family to provide the two most current, consecutive pay stubs. At FH's discretion, if additional paystubs are needed due to the family's circumstances (e.g., sporadic income, fluctuating schedule, etc.), FH may request additional paystubs or a payroll record.

LEVEL 3 VERIFICATION: WRITTEN, THIRD-PARTY FORM [Notice PIH 2023-27]

This type of verification is a form developed by FH and used uniformly for all families when needed to collect information from a third-party source. This is known as "traditional third-party verification." FH sends a FH-developed form directly to the third-party source by mail, fax, or email and the source completes the form by hand (in writing or typeset).

FH may use this method when higher forms are unavailable or are rejected by FH or when the family is unable to provide acceptable verification.

FH will attempt to send written third-party verification forms to the verification source whenever higher forms of verification are unavailable.

LEVEL 2: ORAL THIRD-PARTY VERIFICATION [Notice PIH 2023-27]

For third-party oral verification, FH's contact sources, identified by UIV techniques or by the family, by telephone or in person.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.

FH must document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

FH may skip this level of verification if they attempted written third-party verification via a form and the source did not respond and move directly to self-certification.

In general, FH will attempt to obtain written third-party verification via a form from the verification source. If written third-party verification forms are not returned within 10 business days, FH will accept self-certification from the family without attempting to obtain oral third-party verification.

However, if the FH chooses to obtain oral third-party verification, FH will document in the file the date and time of the telephone call or visit, the name of the person contacted and the telephone number, as well as the information confirmed.

LEVEL 1: SELF-CERTIFICATION [Notice PIH 2023-27]

Non-third-party verification consists of a signed statement of reported income and/or expenses. This verification method should be used as a last resort when FH has not been successful in obtaining information via all other required verification techniques.

Self-certification, however, is an acceptable form of verification when:

- A source of income is fully excluded;
- Net family assets total the HUD-published threshold amount (adjusted annually and published in HUD's Inflation-Adjusted Values tables) or less and FH has adopted a policy to accept self-certification;
- The family declares that they do not have any present ownership in any real property;
- A family reports zero income;

- A family states that they have non-recurring income that will not be repeated in the coming year; and/or
- FH has adopted a policy to implement streamlined verifications for fixed sources of income.

When FH was required to obtain third-party verification but instead relies on self-certification, the family's file must be documented to explain why third-party verification was not available.

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 FH.

FH may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to the PHA and must be signed by the family member whose information or status is being verified.

7.2.6 METHODS OF INCOME VERIFICATION AND TIME ALLOWED

FH will verify information provided by applicants and residents utilizing the following verification methods:

- Up-Front Income Verification (UIV) (Level 5/6): FH will use HUD's Enterprise Income Verification (EIV) system in its entirety to verify resident employment, earned income, unemployment benefits, social security (SS), and supplemental security income (SS) benefits information during annual or interim certifications to substantiate claims made by an applicant or resident. If the institution providing the UIV report charges the resident, FH will utilize the next income verification method.
- EIV + Self-Certification and Written-Third Party Verification (Level 4):
- HUD identifies two types of Level 4 verification: written-third party verification from the source and EIV + self-certification.
- Since it is HUD's position that such resident/applicant-provided documents are written third party verification since these documents originated from a third party source. FH will review documents, when relevant, to substantiate the claim of an applicant or resident. Examples of acceptable resident/applicant-provided documentation (generated by a third party source) include, but are not limited to:
- Pay stubs, payroll summary report
- Employer notice/letter of hire/termination
- SSA award letter S
- Bank Statements
- Child Support court order/payment stubs/or other supporting documents
- Welfare Benefit Letter and/or printouts

- Unemployment award letter or paystubs

EIV + Self-Certification

FH will use an average of the last two quarters of income listed in EIV to determine income from employment. The PHA will provide the family with the information in EIV. The family will be required to sign a self-certification stating that the amount listed in EIV is accurate and representative of current income. If the family disagrees with the amount in EIV, the amount is not reflective of current income, or if less than two quarters are available in EIV, the PHA will use written third-party verification from the source as outlined below.

Third-Party Written Verification (Level 3): FH will request written third party verification under the following circumstances:

- When the resident disputes the EIV information and is unable to provide acceptable documentation to support his/her dispute (24 CFR 5.236 (b));

- When FH requires additional information that is not available in EIV and/or the resident is unable to provide FH with current acceptable resident-provided documentation. Examples of additional information, includes but is not limited to:
- Effective dates of income (i.e. employment, unemployment compensation, or social security benefits)
- For new employment; pay rate, number of hours worked per week, pay frequency, etc.
- Confirmation of changes in circumstances (i.e. reduced hours, reduced rate of pay, temporary leave of absence. etc.)
- Third-Party Information is Late: When third-party written verification has been requested and the timeframes for submission have been exceeded, FH will use the information from documents on a provisional basis. If FH later receives third-party written verification that differs from the amounts used in income and rent determinations and it is past the deadline for processing the reexamination, FH will conduct an interim reexamination to adjust the figures used for the reexamination, regardless of FH's interim reexamination policy.
- **Oral Third Party Verification (Level 2):** FH will make a minimum of two attempts, to obtain oral third-party verification when the independent source does not respond to FH's faxed, mailed, or e-mailed request for income within ten (10) business days. FH will use any information provided orally in combination with reviewing applicant/resident-provided documents. FH staff will document in the resident file, the date and time of the telephone call (or visit to the third party) the name of the person contacted and telephone number, along with the confirmed information.
- **Self Certification (Level 1)**: The resident/applicant submits an affidavit or notarized statement of reported income and/or expense to FH. This method will be used as a last resort when FH has not been successful in obtaining information via all other verification techniques. FH will document in the resident file as to why third party written verification was not available.

FH will not delay the processing of an application beyond two weeks in cases where third party written verification is not received by FH in a timely manner.

Third-Party written Verification for applicants may not be more than 120 days old at the time of a unit offer. For residents, they are valid for 120 days from date of receipt.

7.2.7 VERIFICATION OF INCOME

This section defines the methods FH will use to verify various types of income. Whenever "in this order" is used in this chapter, FH will request and utilize verifications, if available, in the order specified.

Employment Income

Written Verification forms request the employer to specify the:

- Dates of employment
- Amount and frequency of earnings Expected Change in employment status Year-to-date earnings (attach wage printout) Anticipated unpaid time off
- Date of the last pay increase
- The likelihood of change of employment status and effective date of any known salary increase during the next 12 months; year-to-date earnings; estimated income from overtime, tips, bonus pay expected during the next 12 months.

Acceptable methods of verification include, in this order:

- Employment verification form completed by the employer.
- Check stubs or earning statements, which indicate the employee's gross pay, frequency of pay or year to date earnings for the past 12 months.
- W-2 forms plus signed income tax return forms.
- Income tax returns signed by the family may be used for verifying self-employment income, or income from tips and other gratuities.

Applicants and residents may be requested to sign an authorization for release of information from the Internal Revenue Service for further verification of income.

In cases where there are questions about the validity of information provided by the family, the FH will require the most recent signed federal income tax forms.

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.

Social Security, Pensions, Supplemental Security Income (SSI), Disability Income

For policies governing streamlined determinations for fixed sources of income, please see Chapter 9 (Standards for continued Occupancy & Reexaminations).

To verify the SS/SSI benefits of applicants, the FH will request a current (dated within the appropriate benefits year) SSA benefit verification letter from each family member who receives social security benefits. If a family member is unable to provide the document, the FH will help the applicant request a benefit verification letter from SSA's Web site at www.ssa.govor 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 that the family provide the letter to the FH.

To verify the SS/SSI benefits of residents, the FH will obtain information about social security/SSI benefits through HUD's EIV system, and confirm with the resident(s) that the current listed benefit amount is correct. If the resident disputes the EIV-reported benefit amount, or if benefit information is not available in HUD systems, the FH will request a current SSA/SSI benefit verification letter from each family member that receives social security benefits. If a family member is unable to provide the document, the FH will help the resident request a benefit verification letter from SSA's Web site at www. ssa.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 that the family provide the letter to the FH.

Unemployment Compensation

Acceptable methods of verification include, in this order:

- Current award letter dated within 120 days of interview, electronically obtained or in hard copy, stating weekly benefit amounts.
- Third party request to the unemployment compensation agency by FH.
- Payment stubs.

Welfare Payments or General Assistance

Acceptable methods of verification include, in this order:

- Current benefit letter dated within 120 days of interview, electronically obtained or in hard copy, stating monthly benefit amounts.
- Computer-generated Notice of Action.

Alimony or Child Support Payments

Acceptable methods of verification include, in this order:

- Copies of the receipts and/or payment stubs for the 12 months prior to FH 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 amount received

Note: Families are not required to undertake independent enforcement action

Business and Self Employment Income

Business owners and self-employed persons will be required to provide:

Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.).

If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

For self-employed individuals who claim they do not have to file tax returns, FH will obtain a completed copy of IRS Form 4506-T to verify that no return has been filed.

For those employed in “gig employment” (i.e., those in formal agreements with on-demand companies such as Uber, Lyft, or DoorDash), FH will provide a format for the individual to declare their income and expenses. FH will also review the printed statement of monthly income from the applicable app for all hours worked and pay received as well as Schedule C of the individual’s tax return and the corresponding IRS Form 1099 or 1099k.

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

Child Care Business

If an applicant/resident is operating a licensed day care business, income will be verified as with any other business.

If the applicant/resident is operating a “cash and carry” operation (licensed or not), the FH will require the applicant/resident to complete a form for each customer giving: name of person(s) whose child(ren) is/are being cared for, phone number, number of hours child is being cared for, method of payment (check/cash), amount paid, and signature of person.

If the family has filed a tax return, the family will be required to provide it.

Recurring Gifts

Acceptable methods of verification include, in this order:

- Written 3rd party verification of Recurring Gift form completed by the person providing the recurring gift.
- Oral 3rd party verification completed by FH, that includes the following information:
- Gross monthly gift amount
- Name of person providing gift
- Relationship to applicant/tenant
- Any changes to gross monthly amount expected within the next 12 months
- Documented date of oral clarification

- Resident written declaration that includes the following information:
- Gross monthly gift amount
- Name of person providing gift
- Relationship to applicant/tenant
- Any changes to gross monthly amount expected within the next 12 months
- Signed and dated by tenant

Zero-Income Status

FH will employ the use of the EIV process (e.g., CALWORKS, EIV, EDD work history) and other written third party sources when the family claims to have no other income.

EIV Income reports will be used in interim reexaminations when necessary to verify employment income, unemployment benefits, and SS/SSI benefits to verify that families claiming zero income are not receiving income from any of these sources.

Families are required to complete the FH Zero Income certification form as to how they are meeting living expenses, such as utilities, food, clothing, and other incidentals, when they claim zero income and provide written statements from individuals or sources providing such items.

FH will request information from the State Employment Development Department.

Full-Time Student Status

Only the first $480 of the earned income of full time students 18 years of age or older, other than head or spouse, will be counted towards family income. Financial aid, scholarships and grants received by full time students is not counted towards family income.

Verification of full time student status includes:

Written verification from the registrar's office or other school official.

- School records indicating enrollment for sufficient number of credits to be considered a full-time student by the educational institution.

STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9)]

The regulations under HOTMA distinguish between two categories of student financial assistance paid to both full-time and part-time students. Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education not otherwise excluded by the federally mandated income exclusions are included [24 CFR 5.609(b)(9)(ii)].

FH will request written third-party verification of both the source and the amount of student financial assistance. Family-provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.

In addition, unless the student's only source of assistance is assistance under Title IV of the HEA, FH will request written verification of the cost of the student's tuition, books, supplies, room and board, and other required fees and charges to the student from the educational institution.

If FH is unable to obtain third-party written verification of the requested information, FH will pursue other forms of verification following the verification hierarchy in section 7-I.B.

NONRECURRING INCOME [Notice PIH 2023-27]

- Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income.
- FH will accept self-certification from the family stating that income will not be repeated in the coming year. However, FH may choose, on a case-by-case basis, to require third-party verification that income sources will not be repeated in the coming year.

7.2.8 INCOME FROM ASSETS

FH may accept a family's declaration if the amount of assets is equal to or less than the HUD-published threshold amount (adjusted annually and published in HUD's Inflation-Adjusted Values tables). Each adult family member can complete and sign the 'Asset Certification' form as it can serve as the declaration.

FH will use third-party documentation for assets as part of the intake process whenever a family member is added to verify the individuals' assets, and every three years thereafter.

Acceptable methods of third-party verification include, in this order:

Savings Account Interest Income and Dividends

- Account statements, passbooks, certificates of deposit, or FH written verification forms completed by the financial institution.
- Broker's statements showing value of stocks or bonds and the earnings credited to the family. Earnings can be obtained from quotations or oral broker's verification.
- IRS Form 1099 from the financial institution, provided that the FH must adjust the information to project earnings expected for the next 12 months.

Interest Income from Mortgages or Similar Arrangements

- A letter from an accountant, attorney, real estate broker, the buyer, or a financial institution stating interest due for next 12 months. (A copy of the check paid by the buyer to the family is not sufficient unless a breakdown of interest and principal is shown.)

- Amortization schedule showing interest for the 12 months following the effective date of the certification or reexamination.

Net Rental Income from Property Owned by Family

- Attached a signed IRS Form 1040 with Schedule E (Rental Income)
- Copies of latest rent receipts, leases, or other documentation of rent amounts.
- Documentation of allowable operating expenses of the property: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.
- Lessee's written statement verifying rent payments to the family and family's notarized statement as to net income realized.

7.2.9 VERIFICATION OF FAMILY ASSETS

FH will require the necessary information to determine the current cash value, (the net amount the family would receive if the asset were converted to cash).

FH is required to verify all assets for applicants and will not accept a self-certification declaration.

FH will accept a family's declaration of the amount of assets if equal to or less than the HUD-published threshold amount (adjusted annually and published in HUD's Inflation-Adjusted Values tables) However, FH is required to verify resident's assets at least every 3 years. Verification forms, letters, or documents from a financial institution or broker.

- Passbooks, certificates of deposit, bonds, or financial statements completed by a financial institution or broker.
- In determining the value of a checking account, the FH will use the current balance.
- In determining the value of a savings account, the FH will use the current balance.
- Quotes from a stockbroker or realty agent as to the net amount family would receive if they liquidated securities or real estate.
- Real estate tax statements if the approximate current market value can be deducted from assessment.
- Financial statements for business assets.
- Copies of closing documents showing the selling price and the distribution of the sales proceeds.
- Appraisals of personal property held as an investment.
- Family has notarized Statement describing assets or cash held at the family's home or in safe deposit boxes.

Assets Disposed of for Less than Fair Market Value (FMV)

For all Certifications and Reexamination's, the Family will certify as to whether any member has disposed of assets for less than fair market value during the two years preceding the effective date of the certification or reexamination.

If the family certifies that they have disposed of assets for less than fair market value, written verification [or certification] is required that shows:

All assets disposed of for less than FMV,

- The date they were disposed of,
- The amount the family received, and
- The market value of the assets at the time of disposition.

Third party written verification will be obtained wherever possible.

Self-Certification of Real Property Ownership [24 CFR 5.618(b)(2); Notice PIH 2023-27]

- FH must determine whether a family has present ownership in real property that is suitable for occupancy for purposes of determining whether the family is compliant with the asset limitation described in Chapters 3 . FH may accept a self-certification from the family stating that the family does not have any present ownership in any real property that is suitable for occupancy. If the family declares they have present ownership in real property, FH must obtain third-party verification.
- Both at admission and reexam, FH will accept self-certification from the family that the family does not have any present ownership in any real property. The certification will state that the family does not have any present ownership interest in any real property and must be signed by all family members 18 years of age and older. The FH reserves the right to require additional verification in situations where the accuracy of the declaration is in question.
- If the family declares they have a present ownership in real property, the FH will obtain third-party verification of the following factors: whether the family has the legal right to reside in the property; whether the family has effective legal authority to sell the property; and whether the property is suitable for occupancy by the family as a residence. However, in cases where a family member is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, FH will comply with confidentiality requirements under 24 CFR 5.2007 and will accept a self-certification.

7.2.10 VERIFICATION OF ALLOWABLE DEDUCTIONS FROM INCOME

Child care Expenses

Written verification from the person who receives the payments is required. If the childcare provider is an individual, s/he must provide a statement of the amount they are charging the family for their services.

Verifications must specify the child care provider's name, address, telephone number, the names of the children cared for, the number of hours the child care occurs, the rate of pay, and the typical yearly amount paid, including school and vacation periods.

Family's certification as to whether any of those payments have been or will be paid or reimbursed by outside sources.

Typical verification for child-care expenses include but is not limited to: signed income tax records, money orders to the child care provider, or cancelled checks.

Health and Medical Care Expense Deduction

Health and medical care expenses will be verified through:

Written third-party documents provided by the family, such as pharmacy printouts or receipts.

FH will make a best effort to determine what expenses from the past are likely to continue to occur in the future. FH will also accept evidence of monthly payments or total payments that will be due for health and medical care expenses during the upcoming 12 months.

Written third-party verification forms, if the family is unable to provide acceptable documentation.

If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months.

Before placing bills and documentation in the tenant file, FH will redact all personally identifiable information.

If FH receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the person's disability, FH will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to be disposed of, FH will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will FH include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

In addition, FH must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

For attendant care:

- A reliable, knowledgeable professional's certification that the assistance of an attendant is necessary as a medical expense and a projection of the number of hours the care is needed for calculation purposes.

- Attendant has written confirmation of hours of care provided and amount and frequency of payments received from the family or agency (or copies of canceled checks the family used to make those payments) or payment stubs from the agency providing the services.
- Receipts, canceled checks, or pay stubs that verify medical costs and insurance expenses likely to be incurred in the next 12 months.
- Copies of payment agreements or most recent invoice that verify payments made on outstanding medical bills that will continue over all or part of the next 12 months.
- Receipts or other record of medical expenses incurred during the past 12 months that can be used to anticipate future medical expenses. FH may use this approach for "general medical expenses" such as prescription drugs and regular visits to doctors or dentists, but not for one-time, nonrecurring expenses from the previous year.
- FH will use mileage at the IRS's rate, or cab, bus fare, or other public transportation cost for verification of the cost of transportation directly related to medical treatment.

Assistance to Persons with Disabilities

<u>In All Cases</u>: Written certification from a reliable, knowledgeable professional that the person with disabilities requires the services of an attendant and/or the use of auxiliary apparatus to permit him/her to be employed or to function sufficiently independently to enable another family member to be employed.

Family's certification as to whether they receive reimbursement for any of the expenses of disability assistance and the amount of any reimbursement received.

<u>Attendant Care</u>: Attendant's written certification of amount received from the family, frequency of receipt, and hours of care provided. Certification of family and attendant and/or copies of canceled checks family used to make payments.

<u>Auxiliary Apparatus</u>:

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, FH 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

7.3 Part II: Verifying FAMILY INFORMATION

7.3.1 VERIFICATION OF LEGAL IDENTITY

The FH 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 Church issued baptismal certificate Current, valid driver's license or Department of Motor Vehicle identification card U.S. military discharge (DD 214) Current U.S. passport Current government employer identification card with picture	Certificate of birth Adoption papers Custody agreement Health and Human Services ID Certified school records

If a document submitted by a family is illegible for any reason or otherwise questionable, more than one of these documents may be required.

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where the FH has reason to doubt the identity of a person representing themselves to be a tenant or a member of a tenant family.

7.3.2 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, FH will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

Age must be verified only once during continuously assisted occupancy.

7.3.3 FAMILY RELATIONSHIPS

Applicants and residents are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in (Chapter 3 Eligibility and Suitability for Admission to Public Housing).

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

Verification of Marital Status

Verification of divorce status will be a certified copy of the divorce decree, signed by a Court Officer.

- Verification of a separation may be a copy of court-ordered maintenance or other records.
- Verification of marriage status is a marriage certificate.

Familial Relationships

Certification will normally be considered sufficient verification of family relationships. In cases where reasonable doubt exists, the family may be asked to provide verification.

The following verifications will be required if certification is insufficient:

- Verification of relationship:
- Official identification showing name
- Birth certificates
- Verification of guardianship:
- Court-ordered assignment
- Affidavit of parent
- Verification from social services agency
- School records

- Evidence of an established family relationship:
- Joint bank accounts or other shared financial transactions
- Leases or other evidence of prior cohabitation (utility bills)
- Credit reports showing relationship

Verification of Permanently Absent Adult Member

If an adult member who was formerly a member of the household is reported permanently absent by the family, FH will consider any of the following as verification:

- Husband or wife institutes divorce action.
- Husband or wife institutes legal separation.
- Order of protection/restraining order obtained by one family member against another.
- Proof of another home address, such as utility bills, canceled checks for rent, driver's license, lease or rental agreement, if available.
- Statements from other agencies such as social services that the adult family member is no longer living at that location.
- If the adult family member is incarcerated, a document from the Court or prison should be obtained stating how long they will be incarcerated.

Verification of Change in Family Composition

FH will verify changes in family composition (either reported or unreported) through letters, telephone calls, leases, utility records, inspections, landlords, neighbors, credit data, school or DMV records, and other sources. Verification of legal custody must be a court- ordered assignment or verification from a social service agency.

Verification of Disability

Verification of disability must be receipt of SSI or SSA disability payments under Section 223 of the Social Security Act or 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7) or verified by appropriate diagnostician such as physician, psychiatrist, psychologist, therapist, rehabilitation specialist, or licensed social worker, using the HUD language as the verification format. If FH gets written certification that the disability is permanent, FH will only require documentation of disability one time.

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.

For family members claiming disability who receive disability payments from the SSA, FH 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, FH will request a current (dated within the last 120 days) SSA benefit verification letter from each family member claiming disability status. If a family member is unable to provide the document, the PHA will ask the family to obtain a benefit verification letter either by calling SSA at 1-800-772-1213, or by requesting one from www.ssa.gov. Once the family receives the benefit verification letter, they will be required to provide the letter to the FH.

Verification of Citizenship/Eligible Immigrant Status [24 CFR 5.508]

To be eligible for assistance, individuals must be U.S. citizens or eligible immigrants. Individuals who are neither, may elect not to contend their status. Eligible immigrants must fall into one of the categories specified by the regulations and must have their status verified by Immigration and Naturalization Service (INS). Each family member must declare his or her status once. Assistance to a resident cannot be delayed, denied, or terminated while verification of status is pending. Assistance to applicants may be delayed while the FH hearing is pending.

Citizens or Nationals of the United States are required to sign a declaration under penalty of perjury and provide documentation of citizenship.

Acceptable documents will include at least one of the following original documents:

- United States passport
- Resident alien/registration card
- Social Security card
- REAL ID or REAL Driver's License
- Other appropriate documentation as determined by FH

For noncitizens who are 62 years of age or older or who will be 62 years of age or older and receiving assistance under a Section 214 covered program on September 30, 1996 or applying for assistance on or after that date, the evidence consists of:

- A signed declaration of eligible immigration status; and
- Proof of age document.

For all other noncitizens, the evidence consists of:

- A signed declaration of eligible immigration status;
- One of the INS documents referred to in § 24CFR 5.510; and
- A signed verification consent form.

Non-citizens with eligible immigration status must sign a declaration of status and verification consent form and provide their original immigration documents, which are copied front and back and returned to the family. The FH verifies the status through the INS SAVE system. If this primary verification fails to verify status, FH must request within ten days that the INS conduct a manual search.

Family members who do not claim to be citizens or eligible immigrants must be listed on a statement of non-contending family members signed by the head of household or spouse.

Non-citizen students on student visas are ineligible members even though they are in the country lawfully. They must provide their student visa but their status will not be verified and they do not sign a declaration but are listed on the statement of non-contending members.

Failure to Provide: If an applicant or resident family member fails to sign required declarations and consent forms or provide documents, as required, they must be listed as an ineligible member. If the entire family fails to provide and sign as required, the family may be denied or terminated for failure to provide required information.

Time of Verification: For applicants, verification of U.S. citizenship/eligible immigrant status occurs at the same time as verification of other factors of eligibility for final eligibility determination. For resident families, it is done at the first regular reexamination after June 19, 1995. For family members added after other members have been verified, the verification occurs prior to the new member moving in. Once verification has been completed for any covered program, it need not be repeated.

Extensions of Time to Provide Documents: FH will grant an extension of 10 calendar days for families to submit evidence of eligible immigrant status.

Acceptable Documents of Eligible Immigration: [24 CFR 5.510 (b)] Acceptable evidence of eligible immigration status shall be the original of a document designated by INS as acceptable evidence of immigration status in one of the six categories mentioned in § 5.506(a) for the specific immigration status claimed by the individual. Such documents include the following unless changes are published in the Federal Registry or designated by INS.

- Resident Alien Card (I-551)
- Alien Registration Receipt Card (I-151) Arrival-Departure Record (I-94)
- Employment Authorization Card (I-766) (*Note October 1, 2006, USCIS eliminated use of I-688, I-688A and I-688B)
- Receipt issued by the INS for issuance of replacement of any of the above documents that shows individual's entitlement has been verified

A birth certificate alone is not acceptable verification of status. All documents in connection with U.S. citizenship/eligible immigrant status must be kept five years.

7.3.4 VERIFICATION OF SOCIAL SECURITY NUMBERS [24 CFR 5.216 AND PIH2023-27]

SSN DISCLOSURE

All members of the household must supply SSNs as part of HUD's mandatory income matching program, with the following exceptions:

Individuals exempt from disclosure

- Individuals who do not content to have eligible immigration status.
- Residents age 62 or older as of 01/31/2010

- Residents who have previously disclosed a valid SSN

Acceptable SSN Documentation

- An original SSN card issued by the Social Security Administration (SSA) (Refer to PIH Notice2023-27, for a description of the three types of SS cards that SSA issues.)
- An original SSA-issued document with the individual's name and SSN
- An original document issued by a federal, state, or local government agency which contains the name and SSN of the individual
- SSA benefit award letter
- Retirement benefit letter
- Life insurance policy
- Court records

FH must attempt to gather third-party verification of SSNs prior to admission as listed above, If FH is unable to obtain third-party verification FH will accept a self-certification along with a third-party document (such as a bank statement, utility or cell phone bill, or benefit letter) with the applicant's name printed on it to satisfy the SSN disclosure requirement if FH has exhausted all other attempts to obtain the required documentation. When verifying an individual's SSN using this method, FH must document the file as to why the other SSN documentation was not available.

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

Rejection of Documentation

FH may not reject documentation of an SSN unless it

- Is not original,
- It does not appear to be authentic,
- It is not legible, or
- It has been altered or mutilated.
- If the document appears to be forged.

In such cases FH should explain the reason for the rejection and request that acceptable documentation be provided within ten business days of the request date.

Verification of the SSN

After the FH has obtained acceptable documentation of an individual's SSN under the normal certification timelines, the FH must;

- Make a copy of it for the resident file
- Record the SSN on line "3n" of form HUD-50058; and
- Transmit the form to HUD at the time the certification is transmitted in PIC.

Verification of acceptable documents and timely transmission of the HUD-50058 will be monitored monthly by HMD management/designated staff.

If an applicants' family includes a child under 6 years of age who joined the household within the last 6 months prior to the date of program admission, an otherwise eligible family may be admitted and must provide documentation of the child's SSN within 90 days. A 90-day extension will be granted if the FH determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control.

After HUD validates the SSN through its computer-matching program with SSA, the designated staff should destroy the copy that was made of the SSN documentation and replace it with the household's Summary Report no later than the next annual reexamination. This encourages minimizing the risk of exposing an individual's SSN to theft or misuse by minimizing the number of records that display the individual's full nine- digit SSN. The report is confirmation of compliance with the new SSN disclosure, documentation, and verification requirements.

FH will retain EIV reports in resident files "for the duration of tenancy" and up to three years after program participation ends.

Individuals without an Assigned SSN

Citizens and lawfully present noncitizens who state that they have never been assigned an SSN by the SSA will make such declaration in writing and under penalties of perjury to FH. FH will maintain the declaration in the resident file "for the duration of tenancy" and up to three years after program participation ends.

FH will use the Alternate ID generator within PIC to generate a unique identifier number for those individuals who do not have or are unable to disclose a SSN. Once an individual discloses a SSN, FH will delete the Alternate ID, enter the SSN on line "3N" of the form HUD-50058, and transmit the form HUD-50058 to HUD by the certification effective date.

Addition of a New Household Member

When a participant requests to add a new household member, who is six years of age or under six and has an assigned SSN, the family must disclose the SSN and provide documentation of the SSN to FH at the time of request to add the new household member. The new household member cannot be added to the family composition until the family has complied with the SSN disclosure and verification requirements.

Children under age six without an assigned SSN may be added, with a grace period of 90 days to provide SSN documentation. FH may extend the period for an additional 90 days (for a total of 180 days) if FH, in its discretion, determines that the participant's failure to comply was due to unforeseen circumstances outside the control of the head of household which prevented timely disclosure of required documentation. Examples include but are not limited to: delayed processing of SSN application by SSA, natural disaster, fire, death in family, etc.

Disclosure of Participants Newly Assigned SSN

If the participant or any new member of the participant's household has been assigned a new SSN, the participant must disclose the new SSN at the earlier of:

- Next interim reexamination, or
- Next regularly scheduled reexamination, or moving reexamination.

Penalties for Failure to Disclose SSN

In accordance with 24 CFR 5.218, the following penalties apply for noncompliance with the SSN disclosure and documentation requirements:

Participants

If a program participant who is required to meet the new requirements fails to meet them within a specified time frame (including any extension), FH must terminate the assistance and/or tenancy of the participant's entire household.

However, an exception to required termination of assistance may be granted by FH, if in its discretion, it determines that there were unforeseen circumstances beyond the participant's control. In such cases FH will allow up to an additional 90 days to disclose the SSN.

If the family is unable to comply with the requirements by the specified deadline, FH must terminate the tenancy or assistance, or both of the entire family.

The FH must deny admission or terminate the family's tenancy or assistance, or both, if the family submits falsified SSN documentation.

Non-Contending Members without a SSN

The new rules do not apply to persons not here legally who have signed or will sign a non-contending form.

7.3.5 VERIFICATION OF SUITABILITY FOR ADMISSION

Sources to be used to determine suitability include but are not limited to:

- Criminal History Reports
- Prior landlord references
- Physicians, social workers, and other health professionals
- Debts owed to FH and Other Housing Authorities (See Chapter 3 Eligibility and Suitability for Admission to Public Housing).

Ability to Meet Financial Obligations Under the Lease

All applicants may be subject to the following procedures to ensure their ability to meet financial obligations under the lease:

- All applicants may be interviewed and asked questions about the basic elements of tenancy.

- FH may access a Credit Report on all applicants prior to admission
- FH may independently verify the rent-paying history of all applicants directly from previous landlord(s).

Drug-Related or Violent Criminal Activity

FH will complete a check of all adult members of the household initially and annually.

Housekeeping

FH may obtain references from prior landlords to determine acceptable housekeeping standards.

The FH may conduct a home visit prior to admission.

7.3.6 VERIFICATION OF INTEREST LIST PREFERENCES [24 CFR 5.410, 5.415, 5.430] LOCAL PREFERENCES

Residency preference: For families, who live, work, have been hired to work, or have an adult member that is currently enrolled in an institution of higher education in the jurisdiction of FH.

In order to verify that an applicant is a resident, FH will require any of the following documents: rent receipts, leases, utility bills, employer or agency records, school records, drivers licenses, voters registration records, credit reports, statement from household with whom the family is residing.

Veteran's preference: This preference is available to current members of the U.S. Armed Forces, veterans, or surviving spouses of veterans.

FH will require a DD-214 or other U.S. government document that indicates the applicant qualifies under the above definition.

FH offers a preference for families in the HCV families whose HAP contract is being terminated due to an owner failing to make required repairs within the required time frame, and who were unable to lease a new unit within the term of the voucher.

The FH will verify this preference through review of internal HCV program records.

Limited Preferences

Displacement Referral: This preference is subject to the approval of the Executive Director. FH may distribute application forms and may issue a voucher subject to availability to families or single persons that are referred by local governmental officials. The types of referrals that will be considered include, but are not limited to:

- Persons displaced as the result of a government-declared natural disaster
- Persons displaced as the result of governmental action
- Victims under VAWA Reauthorization Act

- Victims under witness protection programs

Referrals must be made in writing, on governmental letterhead, and signed by the requesting official and his or her immediate supervisor. Eligibility, including background checks, will be confirmed for all members.

7.3.7 VERIFICATION OF VAWA STATUS

FH will request that an individual certify via Form HUD-5382, ”Certification of Domestic Violence, Dating Violence, Sexual Assault, , stalking, or human trafficking and Alternate Documentation”, that the individual is a victim of domestic violence, dating violence, sexual assault, , stalking, or human trafficking, regardless of sex, gender identity, or sexual orientation, and that the incident or incidents in question are bona fide incidents of such actual or threatened abuse and meet the requirements set forth in Public Law 109-162 referencing amendments made to Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d); Such certification shall include the name of the perpetrator. FH will request the certification in writing and require that the resident come into the management office to pick up HUD Form 5382 “Certification of Domestic Violence, Dating Violence, Sexual Assault, , stalking, or human trafficking”. The individual shall provide such certification within 14 business days after the individual receives HUD Form 5382, “Certification of Domestic Violence, Dating Violence, , stalking, or human trafficking”. If the individual does not provide the certification within 14 days of receiving the form, nothing in this subsection, or in paragraphs (5) or (6) of subsection (1) in Public Law 109-162, may be construed to limit the authority of FH to evict any resident that commits violations of the Public Housing Lease Agreement. At the discretion of the FH, the 14-day deadline may be extended.

An individual may also satisfy the certification requirement by producing a Federal, State, tribal, territorial, or local police or court record. FH will not demand that an individual produce official documentation or physical proof of the individual’s status as a victim of domestic violence, dating violence, sexual assault, , stalking, or human trafficking in order to receive any of the benefits provided in this section. At the discretion of FH, an individual may be provided benefits based solely on the individual’s statement or other corroborating evidence. (Refer to Chapter 3 Eligibility & Suitability for Admission and Chapter 13 Lease Termination).

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CHAPTER 8 LEASING AND INSPECTIONS [24 CFR 966.4]

8.1 INTRODUCTION

All units must be occupied pursuant to a Resident Lease Agreement that complies with HUD's regulations [24 CFR Part 966]. This chapter describes FH policies pertaining to lease execution, terms of Lease Agreement, security deposits, rent payments, inspection of units, and additions to the lease.

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.

FH has adopted the smoke-free policy, which must be implemented no later than July 18, 2018. The Smoke Free policy is attached as Exhibit 23-1.

This chapter is divided into two parts as follows:

Part I: Leasing. This part describes pre-leasing activities and FH policies pertaining to lease execution, modification, and payments under the lease.

Part II: Inspections. This part describes FH policies for inspecting dwelling units.

8.2 PART I: LEASING

8.2.1 LEASE ORIENTATION

Upon execution of the lease, FH will conduct a lease orientation with all adult members of the household. All adult family members must attend an orientation before taking occupancy of the unit.

Families will be provided with the following information during the lease orientation:

- A copy of FH's Resident Lease Agreement and all applicable addenda
- A copy of the Grievance Procedures
- A copy of the House Rules
- A copy of the signed release forms
- A copy of Parking Policy, if applicable
- Information on the Privacy Act
- A copy of the Fair Housing Booklet
- A copy of the FH Pet Policy, if applicable
- A schedule of FH maintenance labor charges and item charges
- 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, stalking, or human trafficking

- A copy of FH's Smoke Free Policy
- After Hours contact information
- Lock Box information
- Lead Based Paint Disclosure
- Community Service Policy
- Proposition 65

Topics to be discussed will include, but are not limited to:

- Applicable deposits and other charges
- Provisions of the Resident Lease Agreement and applicable addenda
- Orientation to the community
- Unit maintenance and work orders
- The PHA's interim reporting requirements
- Review and explanation of occupancy forms
- Family choice of rent
- VAWA protections
- Smoke-free policy
- Housekeeping standards

8.2.2 TERM OF LEASE AGREEMENT

The term of the lease must be for a period of 12 months. The lease will automatically convert to a month-to-month agreement at the end of the 12-month period. FH will terminate the tenancy if the family has violated the community service requirement [24 CFR 966.4(a)(2)].

8.2.3 EXECUTION OF LEASE [24 CFR 966.4(A)(3)]

The lease shall be executed by the head of household, spouse, and all other adult members of the household, and by an authorized representative of FH, prior to occupancy.

An appointment will be scheduled for the parties to execute the lease. One executed copy of the lease will be given to the resident, and FH will retain the original in the resident's file. The lease is incorporated into this policy by reference. The lease document will reflect current FH policies as well as applicable Federal, State and Local law.

The following provisions govern lease execution and amendments:

- A new lease is only executed at initial occupancy, if the family moves to a different unit, or at the annual certification if the signed lease is not the most current.

If a resident transfers from one FH unit to another without a change in reexamination date.

The names, date of birth of all household members, and masked social security numbers are listed on the lease at initial occupancy and on the Personal Declaration Application each subsequent year. Only those persons listed on the most recent certification shall be permitted to occupy a dwelling unit.

Changes to resident rents are made upon the preparation and execution of a “Notice of Rent Determination” by FH, which becomes an attachment to the lease. Documentation will be included in the resident file to support proper notice.

Households that include a live-in attendant are required to execute a lease addendum authorizing the arrangement and describing the status of the attendant. [24 CFR 966.4(a)(1)(v)].

8.2.3 MODIFICATIONS TO THE LEASE [24 CFR 966.4(A)(3)]

FH may modify its form of lease from time to time, giving residents 30 days for an opportunity to comment on proposed changes and an additional 30-day notice of the implementation of any changes.

Schedules of special charges and rules and regulations are subject to modification or revision. Residents will be provided at least thirty days’ written notice of the reason(s) for any proposed modifications or revisions and will be given an opportunity to present written comments. Comments will be taken into consideration before any proposed modifications or revisions become effective [24 CFR 966.3].

A copy of such notice shall be posted in the central office, and at site leasing offices [24 CFR 966.5].

Any modifications of the lease must be accomplished by a written addendum to the lease and signed by both parties.

A resident’s refusal to execute FH approved lease modifications, or those modifications required by HUD, is a material breach of the Lease Agreement and grounds for termination of tenancy [24 CFR 966.4(l)(2)(iii)(E)].

8.2.4 ADDITIONS TO THE LEASE

Requests for the addition of a new member to the household must first be approved by FH, prior to the actual move-in of the proposed new member, in accordance to Chapter 9, Part III, Section 9.24.

Following receipt of a family’s request to add a new member, FH will conduct a pre- admission suitability review for those proposed household members over the age of 18. Only those members approved by FH will be added to the lease. Furthermore, FH will consider whether the resident’s request to add a member(s) will exceed the occupancy limit for the unit as a factor determining whether to approve the request.

Factors which may determine a pre-admissions suitability review include, but are not limited to:

In cases where the resident plans to marry and add his or her spouse to the lease;

In cases where the resident desires to add a new family member to the lease, and/or employ a live-in aide.

Children born to a family member are not subject to screening for purposes of determining household additions.

Residents who fail to notify FH of additions to the household, or who permit persons to join the household (includes permitting non-residents to utilize a resident's address), without undergoing screening are considered to have unauthorized occupants by FH, and are in violation of the lease and subject to termination of tenancy [24 CFR 966.4(f)(3)].

8.2.5 LEASING UNITS WITH ACCESSIBLE OR ADAPTABLE FEATURES [24 CFR 8.27(A)(1)(2) AND (B)]

Before offering a vacant accessible unit to a non-disabled applicant, FH shall offer such units:

- First, to a current occupant of another unit in the same development, or other public housing developments, who has a disability that requires the special features of the vacant unit.
- Second, to an eligible qualified applicant on the waiting list having a disability that requires the special features of the vacant unit.
- Third, to an eligible qualified applicant on the waiting list who does not require the special features of the vacant unit.

FH will require such applicant to agree to move to an available non-accessible unit within 30 days when either a current resident and/or applicant needs the features of the unit or there is another unit available for the applicant. The applicant will be required to sign the "Occupancy Waiver" at the time of move in.

8.2.6 UTILITY SERVICES

Residents are responsible for direct payment of utilities. Residents must abide by any and all regulations of the specific utility company, including regulations pertaining to advance payments of deposits. Since FH has a no seal contract with the Utility Company, the resident is required to provide documentation that service has been transferred from FH name and under the resident's responsibility as required by FH. Failure to maintain utility services during tenancy is a lease violation and grounds for termination of tenancy. Any utility charges billed to FH for an occupied unit will be posted to the resident's ledger.

If there is a utility reimbursement payment, FH will pay the utility reimbursement payment directly to the resident via debit card.

8.2.7 SECURITY DEPOSITS [24 CFR 966.4(B)(5)]

New residents must pay a security deposit to FH at the time of admission.

The Security Deposit is the greater of the applicant's TTP or $100.00. The security deposit will be waived for applicants with a TTP of $99.00 or less. FH will hold the security deposit for the period the resident occupies the unit.

FH will refund the resident the amount of the security deposit, less any amount needed to pay the cost of:

- Unpaid Rent;
- Damages listed on the Move-Out Inspection Report that exceed normal wear and tear;
- Other charges under the Lease.

FH will refund the Security Deposit, less any amounts owed, as required by California State Law, within 21 days, following the end of the 30 day-notice of intent to vacate, once the resident has turned in keys, or once the unit is found vacant whichever comes first.

Per California Department of Consumer Affairs - Under California law, 21 calendar days or less after a resident moves out, the landlord must either:

- Send the resident a full refund of the security deposit, or
- Mail or personally deliver to the resident an itemized statement that lists the amounts of any deductions from the security deposit and the reasons for the deductions, together with a refund of any amounts not deducted.

FH will provide the resident or appropriate designee with a written list and copies of receipts of any charges against the security deposit. If the resident disagrees with the amount charged to the security deposit, FH will provide a meeting to discuss the charges.

The resident must leave the dwelling unit in a clean and undamaged (beyond normal wear and tear) condition and must furnish a forwarding address to FH. All keys to the unit must be returned to Management upon vacating the unit.

FH will not use the security deposit for payment of rent or other charges while the resident is living in the unit.

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

If the resident bifurcates their lease, the security deposit will remain with the original unit.

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

The resident’s rent is due and payable in advance to Fresno Housing (FH) and mailed to FH’s banking institution of choice, on or before the first day of every month. If the first day falls on a weekend or holiday, the rent is due and payable on the first business day thereafter.

- If the bank does not receive a payment by the fifth calendar day of the month via the lockbox process, a notice to pay rent or quit will be served to the resident.
- Residents shall make all payments by check or money order or cashier’s check payable to Fresno Housing, or via online resident portal.
- FH shall collect a fee in the amount charged to FH by the bank anytime a check is not honored for payment.
- Residents who submit more than two (2) checks that are not honored for payment will be required to make rent payments by money order or cashier’s check only.

8.2.9 FEES AND LOCKBOX SYSTEM

The following is the LOCKBOX procedure for paying rent:

- Rent payments mailed to FH banking institution of choice designated Post Office Box
- The bank will scan the front of the money order/check, envelope and statement;
- All scanned documents and payment information is inputted and batched by the bank;
- The bank uploads all payment information to a secure website;
- FH accesses the secure bank web site and imports the rent payment data file into the FH's database.
- Rent payments received via online banking will be directly deposited to FH banking institution of choice.

8.2.10 LATE FEES AND INSUFFICIENT FUND [24 CFR 966.4(B)(3); 24 CFR 966.4(Q) AND (R)]

If the family fails to pay their rent by the fifth day of the month through the bank's lockbox center and FH has not agreed to accept payment at a later date, a 30-day day Notice to Pay or Quit will be issued to the resident for failure to pay rent, demanding payment in full or the surrender of the premises.

In addition, if the resident fails to make payment by the end of office hours on the fifth day of the month, a late fee of $20.00 will be charged. Notices of late fees will be in accordance with requirements regarding notices of adverse action. Charges are due and payable 30 calendar days after billing. If the family requests a grievance hearing within the required timeframe, FH may not take action for nonpayment of the fee until the conclusion of the grievance process. If the resident can document financial hardship, the late fee may be waived on a case-by-case basis.

When a check is returned for insufficient funds or is written on a closed account, the rent will be considered unpaid and a returned check fee of $25.00 will be charged for the first returned check and up to $35.00 for any subsequent returned check. The fee will be due and payable 30 days after billing in addition to the late fee if applicable

8.2.11 SCHEDULES OF MAINTENANCE CHARGES

A schedule of charges for maintenance services and repairs which is incorporated into the lease by reference shall be publicly posted in a conspicuous manner in the management office.

8.3 PART II: INSPECTIONS

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

8.3.1 INSPECTIONS OF PUBLIC HOUSING UNITS [24 CFR 966.4(I)]

Move-In Inspections [24 CFR 966.4(i)]

FH and the family will inspect the premises prior to occupancy of the unit in order to determine the condition of the unit and equipment in the unit. The initial inspection, signed by FH and the resident, will be kept in the resident file and a copy will be provided to the resident.

Annual Inspections [24 CFR 5.705]

FH will inspect all units annually using HUD's NSPIRE as a guideline.

Residents who "fail" the inspection due to housekeeping or resident-caused damages will be given 10 business days to correct noted items. FH will schedule a follow-up inspection to verify that the resident corrected the deficiencies.

Residents will be issued a copy of the inspection report with required corrections.

All inspections will include a check of all smoke alarms and carbon monoxide detectors to ensure proper working order.

Inspection report will indicate whether required corrections are to be charged to the resident or covered by FH.

Damages beyond "normal wear and tear" will be billed to the resident.

Quality Control Inspections

FH will conduct periodic quality control inspections based on random sampling to determine the condition of the unit and to identify problems or issues in which FH can be of service to the family and to assure that repairs were completed at an acceptable level of craftsmanship and within an acceptable time frame.

FH will conduct quality control inspections on 10% of all units.

Special Inspections

FH may conduct a special inspection for housekeeping, unit condition, suspected lease violation every 15 days until violation is cured or if there is a reasonable cause to believe an emergency exists.

HUD representatives or local government officials may review FH operations periodically and as a part of their monitoring may inspect a sampling of the FH inventory.

Move-Out Inspections [24 CFR 966.4(i)]

The purpose of these inspections is to determine necessary repairs and whether there are damages that exceed normal wear and tear. FH will determine if there are resident caused damages to the unit. Resident caused damages may affect part or all of the family's security deposit.

In accordance with Section 1950.5(f) of the California Civil Code, FH will abide by the following Move-Out Inspection procedures when the resident submits a 30-day Notice of Intent to Vacate, or the FH issues a 30-day Notice to Terminate Tenancy to the resident.

These procedures do not apply to residents who receive a Ten-Day Notice to Quit due to a lack of time to a provide a Pre- Move-Out inspection.

- FH shall notify the resident in writing of their mandatory initial Move-Out inspection and their right to be present for the inspection; at the time the resident submits a 30-Day Notice of Intent to Vacate.
- At the time the resident submits a 30-Day Notice of Intent to Vacate or FH issues a 30-Day Notice to Terminate Tenancy, the residents will be informed that the Pre-Move-Out inspection will be conducted no later than 48 hours prior to vacating the apartment. Should the resident decline an initial inspection, FH will be discharged of its duty.
- FH and the resident will schedule said inspection at a mutually agreed upon date and time. The Pre-Move-Out inspection should be scheduled no earlier than two weeks before the termination of the Resident Lease Agreement.
- FH will give the resident 24-hour prior written notice of the mutually agreed upon date and time. However, FH and the resident may forego the 24-hour written notice by executing a written waiver. FH will then proceed with the inspection whether the resident is present or not in the unit.
- Upon the completion of the inspection, FH will give the resident an estimate specifying the items that are in need of repair and/or cleaning which will be the basis for deductions from the security deposit.
- The resident will have the opportunity during the period from the completion of the initial inspection until termination of the Lease Agreement to remedy the deficiencies.

Following the final inspection, FH may deduct from the security deposit items not cured, items which occurred after the initial inspection, or items not identified during the initial inspection due to the presence of the resident's possessions.

Emergency Inspections [24 CFR 966.4(j)(2)]

FH may initiate an emergency inspection report to generate a work order if they believe that an emergency exists in the unit. In addition, FH may conduct an emergency inspection without a work order and generate a work order after the inspection has been conducted (see Entry of Premises Notice in this chapter.) Repairs are to be completed within 24 hours from the time the work order is issued. For emergency inspections or repairs, no advance notice is required for FH to enter the unit.

Entry of Premises Notices

FH will give 24-hour advance written notice prior to entering the unit for non-emergency inspections or repairs. Non-emergency entries to the unit will be made during reasonable hours of the day. For emergency inspections or repairs, no advance notice is required for FH to enter the unit.

An adult family member must be present in the unit during the inspection or repair if there are children present in the unit.

If no person is at home, FH will enter the unit and conduct the inspection or repairs.

If no one is in the unit, FH will leave a written notice to the resident explaining the reason the unit was entered and the date and time.

FH reserves the right to enter a unit, subject to the applicable notice, under the following conditions:

- Inspections and maintenance to make improvements and repairs Preventative Maintenance
- Routine Maintenance
- Non-Inspection Emergency Entry [24 CFR 966.4 (j)(1)]

FH staff will allow access to the unit to proper authorities when issues of health or safety of the resident are concerned.

Family Responsibility to Allow Inspection

It is a violation of the Resident Lease Agreement for the resident to refuse to allow entry to the unit for the reasons set forth in this ACOP and may be grounds for termination of the Resident Lease Agreement.

Housekeeping Residents who "fail" an inspection due to housekeeping will be issued a notice, and a re-inspection will be conducted within ten (10) business days by FH staff. Should the resident "fail" the re-inspection, FH will conduct a unit inspection every 15 days until violation is cured. If violation is not cured within 45 days a notice to vacate will be issued for cause.

Should the family fail to comply with the re-inspection, it can be a material breach of the lease and grounds for termination of tenancy. Health & Safety issues will result in termination procedures according to Chapter 13, Section 13.6.

More than one citation issued to a family who has purposely and for convenience disengaged, the unit's smoke detector and/or carbon monoxide detector will be considered a violation of the lease and may be grounds for termination.

Resident Damages

Repeated failed inspections or damages to the unit beyond normal wear and tear may constitute serious or repeated lease violations. Repeated shall mean after three (3) violations.

"Beyond normal wear and tear" is defined as items that could be charged against the resident's security deposit under state law.

8.3.2 GUEST POLICY

The occupancy provisions of the Resident Lease Agreement allow for accommodation of Resident's guest, for a consecutive period not to exceed one (1) week each year without prior approval of management. Guests may be permitted in a Dwelling Unit as long as they have no previous history of behavior that would be a lease violation. FH has discretionary authority to approve the occupation of a unit beyond 7 days.

Absence of evidence of any other address will be considered verification that the visitor is an unauthorized household member.

FH will consider:

- Statements from FH staff
- Vehicle license plate verification
- Post Office records
- Driver's license verification
- Law enforcement reports
- Credit reports

Use of the unit address as the visitor's current residence for any purpose that is not explicitly temporary shall be construed as permanent residence.

The burden of proof that the individual is a guest rests on the family. In the absence of such proof, the individual will be considered an unauthorized member of the family and FH may terminate the family's lease since prior approval was not requested for the addition.

In a joint custody arrangement, if the minor is in the household less than 90 days per year, the minor will be considered to be an eligible guest and not a family member. If both parents reside in Public Housing, only one parent shall be able to claim the child for deductions and for determination for the occupancy standards.

8.3.3 HOME OCCUPATIONS

FH in its sole discretion, may authorize a unit to be used as a place for conducting a home occupation; provided that the unit is used primarily as a place of residence and the following conditions are met to assure that the use of the unit is consistent with residential use and will not disturb the peaceful enjoyment of the premises by other residents.

Criteria for Home Occupations

- No construction, structural alteration or addition to the unit shall be permitted;
- Not more than one room in a unit shall be primarily used in connection with the home occupation;
- No special equipment or facilities other than furnishings, small tools, and hand- carried or light office machines shall be installed or utilized;
- No persons other than residents of FH shall work on the Premises in connection with the home occupation;
- There shall be no excessive vehicular traffic to or from the unit by customers, salesmen, repairmen, service vehicles, deliverymen, messengers or others beyond the amount of such traffic generally incidental to residential uses;
- There shall be no excessive foot traffic to or from the unit by customers, salesmen, repairmen, service vehicles, deliverymen, messengers or others beyond the amount of

such traffic generally incidental to residential uses;

- No sound created by the operation of the home occupation shall raise the noise to a level which disturbs the neighbors or the housing complex;
- No hazardous or offensive materials shall be displayed, stored or utilized;
- No sign shall be displayed which in any way indicates the presence of a nonresidential activity;
- There shall be no evidence of nonresidential activity visible from any point beyond the immediate premises where the home occupation is located;
- Storage of goods and materials not associated with residential uses shall be limited and shall not create a safety or health impact such as, but not limited to, fire safety or blockage of passageways;
- Sale of firearms shall be prohibited.
- Must obtain any applicable local permits/approvals from agencies governing home occupations.

The FH designated staff shall have final approval of all Home Occupation activities.

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<u>CHAPTER 9 – STANDARDS FOR CONTINUED OCCUPANCY & REEXAMINATIONS</u>

[24 CFR 960.257, 960.259, 966.4]

9.1 INTRODUCTION

This chapter discusses both annual and interim reexaminations.

FH is required to verify each family's income and composition annually in order to adjust the family's rent accordingly. FH has adopted policies in regards to conducting annual and interim reexaminations that are consistent with regulatory requirements, and must conduct reexaminations in accordance with such policies [24 CFR 960.257(c)].

The frequency in which FH will reexamine income for a family depends on whether the family pays income-based or flat rent. HUD requires FH to offer all families the choice of paying income-based rent or flat rent annually. Per PIH Notice 2016-05, Streamlining Rule, Mixed Families may not choose flat rent when their TTP is greater than the applicable flat rent. FH policies for offering families a choice of rent is located in (Chapter 6 Income and Rent Determination).

<u>Part I:Annual Reexaminations for Families Paying Income-Based Rents. This part discusses the requirements for annual reexamination of income and family composition. Full reexaminations are conducted at least once a year for families paying income-based rents. Standards for Continued Occupancy.</u> This part lists the criteria a resident must meet to be eligible for continued occupancy.

<u>Part II: Reexaminations for Families Paying Flat Rents. This part contains the FH's policies for conducting full reexaminations of family income and composition for families paying flat rents. These full reexaminations are conducted at least once every three years. This part also contains the FH's policies for conducting annual updates of family composition for flat rent families</u>

<u>Part III: Interim Reexaminations.</u> This part includes HUD requirements and FH policies related to when a family may and must report changes that occur between annual reexaminations.

<u>Part IV: Recalculating Resident Rent.</u> After gathering and verifying required information for an annual or interim reexamination, FH will recalculate the resident rent. 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.

<u>Part V: Non-Interim Reexamination Transactions</u>. This part describes transactions that do not entail changes to the family's adjusted income.

Policies governing reasonable accommodation, family privacy, required family cooperation and program abuse, as described elsewhere in this ACOP, apply to annual and interim reexaminations.

9.2

9.2.1 ELIGIBILITY FOR CONTINUED OCCUPANCY

Residents who meet the following criteria will be eligible for continued occupancy:

- Qualify as a family as defined in this policy.
- Are in full compliance and able to abide with all the obligations and responsibilities described in the Resident Lease Agreement;
- All family members are to have submitted their Social Security numbers (or have certifications on file that they do not have a Social Security number);
- For family members who have submitted required citizenship/eligible immigration status/non-contending documents.
- All household members age 18 and over will be required to execute a consent form and pass the criminal background check as part of the annual reexamination process.
- Are not subject to sex offender lifetime registration under a State sex offender registration program. If FH discovers that a current public housing resident is subject to sex offender lifetime registration under a State sex offender registration program, FH will proceed with eviction of the resident. Families who fail to remove any household member(s), which includes minors 13 to 17 years of age, that are subject to a sex offender lifetime registration under a State sex offender registration program, will be evicted.

Verification of Family Break-up

If a family breaks up into two otherwise eligible families while living in public housing, only one of the new families will continue to be assisted

If a court determines the disposition of property between members of the resident family in a divorce or separation decree, FH will abide by the court's determination.

In the absence of a judicial decision or an agreement among the original family members, FH will determine which family will continue in occupancy taking into consideration the following factors:

- The interest of any minor children, including custody arrangements;
- The interest of any ill, elderly, or disabled family members;
- Any possible risks to family members as a result of domestic violence, dating violence, sexual assault, and stalking in accordance with VAWA Reauthorization Act or criminal activity;
- The recommendations of social service professionals.

9.3 PART II: ANNUAL REEXAMINATIONS FOR FAMILIES PAYING INCOME BASED RENTS [24 CFR 960.257 & 24 CFR 960.257]

9.3.1 OVERVIEW

This part contains FH policies for conducting annual reexaminations.

For those families who choose to pay income-based rent, FH will conduct a reexamination of income and family composition annually [24 CFR 960.257]. With the exception of over-income families, who must have their income reviewed at 12 and 24 months, for families who choose to pay flat rents, FH must conduct a reexamination of family composition annually, and must conduct a reexamination of family income once every 3 years [24 CFR 960.257(a)(2)]. Policies related to the reexamination process for families paying flat rent are located in Part II of this chapter.

For all residents of public housing, whether those residents are paying income-based or flat rents, FH must conduct an annual review of community service requirement compliance. The resident will also sign the consent forms for criminal background checks.

FH is required to obtain information needed to conduct reexaminations. Families are required to provide current and accurate information on income, assets, allowances, deductions, family composition and community service compliance as part of the reexamination process [24 CFR 960.259].

FH may streamline the income determination process for family member with fixed sources of income. [Streamlined Annual Reexaminations [24 CFR Parts 5, 891, 960.257 and 982.516(b), Federal Register Vol. 82, No. 237, December 12, 2017], [PIH 2016-05 (HA)]

Fixed sources of income include:

- Social Security, Supplemental Security income (SSI) and Security Disability Insurance (SSDI)
- Pensions
- Insurance Policies
- Retirement Funds
- 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.

Third-party verification of all income sources must be obtained during the intake process and every three years thereafter, in the intervening years FH may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or rate of interest. FH may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family for a re-determination of rent, FH must perform third-party verification of all income sources.

9.3.2 SCHEDULING ANNUAL REEXAMINATIONS

FH has established a policy to ensure that the annual reexamination for each family paying the income-based rent is completed within a 12-month period [24 CFR 960.257(a)(1)].

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

- Anniversary date is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).When families move to another dwelling unit the anniversary date will not be changed, but under no circumstances shall the annual reexamination take place later than twelve months.

9.3.3 ANNUAL REEXAMINATIONS

In order to be recertified, families are required to provide current and accurate information on income, assets, allowance deductions, and family composition. Families are required to report and certify this information by completing a Questionnaire with the FH. Additionally, families must complete Form HUD-92006 at this time [Notice PIH 2009-36].

FH is required to conduct income reexaminations every year for families who pay income based rent and every three years for families who pay flat rent.

For families who move in after the 1st day of the month, the annual reexaminations will be completed no later than the first of the month in which the family moved in, the following year. (Example: If family moves in August 15, the effective date of the next annual reexamination is August 1.)

For families who move in on the first of the month, the annual reexamination will be completed within 12 months of the anniversary of the move-in date. (Example: If family moves in August 1, the annual reexamination will be effective on August 1, the following year.)

9.3.4 REEXAMINATION NOTICE TO THE FAMILY

All families will be notified of their obligation to recertify by first class mail. The notification shall be sent at least 120 days in advance of the anniversary date. FH will provide the notice in an accessible format if an accommodation is requested by a person with a disability, FH will also mail the notice to a third party, if requested as a reasonable accommodation for a person with disabilities. These accommodations will be granted upon verification that they meet the need presented by the disability.

During reexamination, FH staff shall explain family choice of income-based or flat rent, with an estimate of what the income-based rent would be and a statement of what the flat rent is.

The family will indicate whether the family chooses income-based or flat rent by checking the appropriate box on the document, and signing the document. The document will be retained in the resident's file.

9.3.5 REEXAMINATION NOTICE TIMELINE

First Reminder Notice A notice is mailed 120 days in advance of the reexamination anniversary date. The resident is required to complete the Questionnaire packet regarding their family composition, community service requirement, and incomes of all household members. The family must present all required documents at the time of their scheduled appointment.

Second Reminder Notice If the resident fails to respond within 30 days of the First Reminder Notice, FH will provide a Second Reminder Notice approximately 90 days prior to the resident's reexamination anniversary date informing the resident that his/her reexamination information is due. The second notice contains the same information as the First Notice and a new appointment is scheduled for the resident's annual reexamination.

Third Reminder Notice If the resident does not respond to the Second Reminder Notice before 60 days prior to the reexamination anniversary date, FH will provide the resident a Third Reminder Notice no later than 60 days prior to the anniversary date. This notice will include a 60-Day Notice to Terminate Tenancy.

Fourth Reminder Notice / Notice of Intent to Terminate If the resident does not respond to the Third Reminder Notice before 30 days prior to the reexamination anniversary date, FH will provide the resident a Fourth Reminder Notice no later than 30 days prior to the anniversary date. This notice serves as a 30-Day Notice to Terminate Tenancy.

9.3.6 METHODOLOGY

If the family chooses income-based rent, or if the family has paid the flat rent for three (3) years, FH will schedule the specific date and time of appointments in the written notification to the family.

9.3.7 PERSONS WITH DISABILITIES

Persons with disabilities, who are unable to come to FH office will be granted a reasonable accommodation of conducting the interview at the person's home/by mail/hospital, upon verification that the accommodation requested meets the need presented by the disability.

9.3.8 COLLECTION OF INFORMATION

The family is required to complete a questionnaire packet, including the following HUD forms:

- HUD-92006 form,
- HUD-Form 9886,
- Debts Owed HUD Form-52675,
- RHIIP

In addition all adult members of the household will be required to sign a Criminal Background Consent Form and provide necessary documentation needed to determine eligibility.

9.3.9 REQUIREMENTS TO ATTEND

All adult family members will be required to attend annual reexamination interviews, complete a new questionnaire, and complete all required forms, listed above, for continued occupancy no less than 60 days before the effective date.

If the head of household or any adult member of the household is unable to attend the interview the appointment will be rescheduled as outlined in Reexamination Notice Timeline of this Chapter, but in all cases the appointment must occur no less than 30 days before the effective date. Failure to comply with the reexamination requirement will be material breach of the lease and may result in termination of tenancy.

9.3.10 CRIMINAL BACKGROUND CHECK

Information obtained through the criminal background checks will be used for lease enforcement and may lead to eviction [24 CFR 5.903(e)]. Criminal background checks of residents will be conducted in accordance with the policy in Chapter 3 Eligibility and Suitability for Admission to Public Housing.

FH will request a criminal background check of all adult members of the household as part of the eligibility process for continued occupancy on an annual basis. A criminal check will be requested up to 120 days prior to the resident's annual certification date.

FH will conduct criminal background checks using but not limited to FBI finger printing, DOJ Lifetime Sex Offender, and County and Statewide Criminal searches. A family may be denied assistance if the results shows evidence which would prohibit admission to public housing.

9.3.11 FAILURE TO RESPOND TO NOTIFICATION TO RECERTIFY

The written notification will explain which family members are required to attend the reexamination interview. The family may call to request another appointment date up to five business days prior to the interview.

If the family does not appear for the reexamination interview, and has not rescheduled or made prior arrangements with FH will reschedule a second appointment.

Failure to recertify by the timeframe in this Policy under Section 9.5 will result in termination of tenancy. Exceptions to these policies may be made by the Property Manager if the family is able to document an emergency situation that prevented them from canceling or attending the appointment.

9.3.12 DOCUMENTS REQUIRED FROM THE FAMILY

In the appointment letter to the family, the FH will request the following documentation to be brought by the family:

Documentation of income for all family members Documentation of liquid and non-liquid assets Documentation to substantiate any deductions or allowances

Personal Declaration Form completed and signed by all adult family members

Sign the Criminal Background Consent form, the HUD-9886 Consent form, Debts Owed HUD-52675, RHIPP and HUD-92006.

9.3.13 VERIFICATION OF INFORMATION

All information which affects the family's continued eligibility for the program, will be verified in accordance with the verification procedures and guidelines described in this Policy. Verifications used for reexamination must be less than 120 days old. All verifications will be placed in the file, which has been established for the family.

When the information has been verified, it will be analyzed to determine:

- The continued eligibility of the resident as a family or as the remaining members of a family;
- The unit size required by the family;
- The amount of rent the family should pay.
- Documentation of financial aid

9.3.14 CHANGES IN THE RESIDENT RENT

When a reexamination is completed, FH will, if necessary, execute a new lease or mail a written "Notice of Review Determination" (LHA Form No.19) to the resident showing the change in the amount of anticipated family income and the change in monthly rent including the amount of retroactive rent (determined in accordance with Chapter 15) due, if any, resulting from such reexamination or redetermination. The resident agrees to accept such "Notice of Review Determination" as an amendment to the lease. [24 CFR 966.4(c)]

9.3.15 RESIDENT RENT INCREASES

If the resident's rent increases, a thirty-day notice will be mailed to the family prior to the anniversary date.

If less than thirty days are remaining before the anniversary date, the resident rent increase will be effective on the first of the second month following the thirty-day notice.

If there has been a misrepresentation or a material omission by the family, or if the family causes a delay in the reexamination process, there will be a retroactive increase in rent to the anniversary date.

9.3.16 RESIDENT RENT DECREASES

If the resident's rent decreases, it will be effective on the anniversary date.

If the family causes a delay so that the processing of the reexamination is not complete by the anniversary date, rent change will be effective on the first day of the month following completion of the reexamination processing by the FH.

9.4 REEXAMINATIONS FOR FAMILIES PAYING FLAT RENTS {24 CFR 960.253(F)}

9.4.1 OVERVIEW

HUD requires that the FH offer all families the choice of paying income-based rent or flat rent at least annually. FH's policies for offering families a choice of rents are located in Chapter 6.

For families who choose flat rents, FH 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 960.253(f)]. The FH is only required to provide the amount of income-based rent the family might pay in those years that the FH conducts a full reexamination of income and family composition, or upon request of the family after the family submits updated income information [24 CFR 960.253(e)(2)]. However, these regulations are not applicable to over-income families. Once an over-income determination is made, FH must conduct an interim reexamination at 12 and 24 months, as applicable, to determine if the family remains over-income [Notice PIH 2023-03].

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

This part contains FH's policies for conducting reexaminations of families who choose to pay flat rents.

9.4.2 FULL REEXAMINATION OF FAMILY INCOME AND COMPOSITION

For families paying flat rents, the FH will conduct a full reexamination of family income and composition once every three years.

However, for flat rent families who become over-income between full annual reexaminations, FH will conduct an interim reexamination at 12 and 24 months following the initial over-income determination as needed to verify the family remains over-income. The family will continue to be given a choice between income-based and flat rent at each annual reexamination during the over-income grace period.

If the family is subsequently determined to no longer be over-income:

> If the determination is the result of an annual reexamination, the family will be given a choice between income-based or flat rent at reexam. If the family selects flat rent, FH will resume reexamination of family income and composition once every three years.
>
> If determination is as a result of an interim reexamination, FH will conduct an annual reexamination for the family at their next scheduled annual date. If the family selects flat rent, FH will resume reexamination of family income and composition once every three years. Families will only be given the choice between income-based and flat rent at annual reexamination.

9.4.3 REEXAMINATION OF FAMILY COMPOSITION (ANNUAL UPDATE)

As noted above, if full reexaminations are conducted every three years for families paying flat rents, in the years between full reexaminations, regulations require FH to conduct a reexamination of family composition ("annual update") [24 CFR 960.257(a)(2)]. Over-income families who select the flat rent are not subject to annual update as their income must be reviewed, and an interim reexamination conducted, at 12 and 24 months as applicable.

The annual update process is similar to the annual reexamination process, except that the FH does not collect information about the family's income and expenses, and the family's rent is not recalculated following an annual update.

Scheduling

FH 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)].

For families paying flat rents, annual updates will be conducted in each of the 2 years following the full reexamination.

In scheduling the annual update, FH will follow the policy used for scheduling the annual reexamination of families paying income-based rent as set forth in Section 9.3.2 above.

Conducting Annual Updates

The terms of the public housing lease require the family to furnish information necessary for the redetermination of rent and family composition [24 CFR 966.4(c)(2)].

Generally, the family will not be required to attend an interview for an annual update. However, if the FH 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 FH. The family will have 10 business days to submit the required information to FH. If the family is unable to obtain the information or documents within the required time frame, the family may request an extension. FH 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, FH will send a second written notice to the family. The family will have 10 business days from the date of the second notice to provide the missing information or documentation to FH.

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.

PART III: INTERIM REEXAMINATIONS POLICY [24 CFR 960.257 (B); 24 CFR 966.4; AND NOTICE PIH 2023-27]

Overview

Family circumstances may change during the period between annual reexaminations. FH policies define the types of information about changes in family circumstances that must be reported, and under what circumstances the FH must process interim reexaminations to reflect those changes.

A family may request an interim determination of family income or composition because of any changes since the last determination. FH must conduct any interim reexamination within a reasonable period of time after the family request or when the FH becomes aware of a change in the family's adjusted income that must be processed in accordance with HUD regulations. What qualifies as a "reasonable time" may vary based on the amount of time it takes to verify information, FH generally will conduct the interim reexamination not longer than 30 days after the FH becomes aware of changes in income.

The U.S. citizenship/eligible immigrant status of additional family members must be declared and verified prior to the approval by FH of the family member being added to the lease.

Notice PIH 2023-27 changes the conditions under which interim reexaminations must be conducted, codifies when interim reexaminations should be processed and made effective, and requires related changes for annual reexaminations and streamlined income determinations. When the FH determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income.

9.4.1 REPORTING INTERIM CHANGES

Families must report any changes in household composition or income to FH between annual reexaminations, within thirty calendar days of the change. This includes additions due to birth, adoption and court-awarded custody. The family must obtain FH approval prior to all other additions to the household.

The U.S. citizenship/eligible immigrant status of additional family members must be declared and verified prior to the approval by FH of the family member being added to the lease.

Families that elect to pay flat rent are not required to report increases in income or assets.

PROCESSING INTERIM REEXAMINATION

FH will conduct an interim reexamination based on the reported changes if the income decrease is 10% or more of adjusted income, which would result in a reduction of the family's total tenant payment (TTP).

FH will not conduct an interim reexamination for increases in the family income, unless

- The family requests FH to do so, or
- There is also a change in the family composition.

Note: Increase in family income as a result of the following will be processed in accordance with the applicable Section in this policy.

- Families that claim zero income, refer to Section 9.4.3 of this policy.

9.4.2 INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS

FH will not reduce the public housing rent for families whose welfare assistance is reduced due to a "specified welfare benefit reduction," defined below as "Imputed Welfare Income." [24 CFR §5.615 (c)(5)].

The table below breaks down the possible reasons welfare benefit may be reduced or terminated and whether imputed welfare assistance needs to be included in the annual income.

Reasons for welfare benefits reduction or termination.	Is imputed welfare income included as annual income?
Due to limit of how long benefits may be received (expiration of lifetime benefits)	**No**, imputed welfare income is **not** included.
The family was not able to obtain required employment, however the family complied with the program economic self-sufficiency requirements.	**No**, imputed welfare income is **not** included.
The family has not complied with other welfare agency requirements, i.e. the family did not attend their welfare reexamination appointment.	**No**, imputed welfare income is **not** included.
Fraud by a family member in connection with the welfare program.	**Yes**, imputed welfare income **must** be included in income.
Noncompliance with the welfare agency requirements to participate in an economic self-sufficiency program, i.e. Welfare to Work (WTW).	**Yes**, imputed welfare income **must** be included in income.

Definition of "Covered Family"

A household that receives benefits for welfare or public assistance from a State or public agency program which requires, as a condition of eligibility to receive assistance, the participation of a family member in an economic self-sufficiency program.

Definition of "Imputed Welfare Income"

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

The amount of imputed welfare income is determined by FH, based on written information supplied to FH by the welfare agency, including:

The amount of the benefit reduction the term of the benefit reduction the reason for the reduction subsequent changes in the term or amount of benefit reduction.

Imputed welfare income will be included at annual and interim reexamination during the term of reduction of welfare benefits.

The amount of imputed welfare income will be offset by the amount of additional income a family receives that begins after the sanction was imposed. When additional income is at least equal to the imputed welfare income, the imputed income will be reduced to zero.

If the family was not an assisted resident of public housing when the welfare sanction began, imputed welfare income will not be included in annual income.

Verification Before Denying a Request to Reduce Rent

FH will obtain written verification from the welfare agency stating that the family's benefits have been reduced for fraud or noncompliance before denying the family's request for rent reduction.

FH will rely on the welfare agency's written notice to FH regarding welfare sanctions.

Cooperation Agreements

FH has a written cooperation agreement in place with the local welfare agency which assists FH in obtaining the necessary information regarding welfare sanctions.

FH has taken a proactive approach to culminating an effective working relationship between FH and the local welfare agency for the purpose of targeting economic self- sufficiency programs throughout the community that are available to public housing residents.

FH and the local welfare agency have mutually agreed to notify each other of any economic self-sufficiency and/or other appropriate programs or services that would benefit public housing residents.

Family Dispute of Amount of Imputed Welfare Income

If the family disputes the amount of imputed income and FH denies the family's request to modify the amount, FH will provide the resident with a notice of denial, which will include:

- An explanation for FH determination of the amount of imputed welfare income
- A statement that the resident may request a grievance hearing

If the resident requests a grievance hearing, the resident is not required to pay an escrow deposit pursuant to Section 966.55(e) for the portion of resident rent attributable to the imputed welfare income.

9.4.3 OTHER INTERIM REPORTING ISSUES

An interim reexamination will be scheduled for families with zero income every 90 days.

Any changes reported by residents other than those listed in this section will not be processed between regularly scheduled annual reexaminations.

9.4.4 FH ERRORS

If FH makes a calculation error at admission to the program or at an annual reexamination, an interim reexamination will be conducted to correct the error. If the family had been undercharged as a result of the calculation error, the family will not be charged retroactively. If the family had been overcharged as a result of the calculation error, the family will receive a rent credit retroactively.

TIMELY REPORTING CHANGES IN INCOME AND ASSETS

Standard for Timely Reporting of Changes for Reexaminations and Interims

FH requires that families report income, assets and family changes, to FH within thirty (30) calendar days of the date the change occurred. Any information, document or signature needed from the family to verify the change must be provided at the time of the reported change.

If the change is not reported within the required time period, or if the family fails to provide signatures, certifications or documentation, (in the time period requested by FH), it will be considered untimely reporting.

FH staff will initiate an appointment with the family no later than five (5) working days after the family reports the change to FH. Interim changes are to be completed within fifteen (15) working days after the family reports the change to FH.

Procedures When the Change Is Reported in a Timely Manner

FH will notify the family of any changes in Resident Rent to be effective according to the following guidelines:

Increases in the Resident Rent are effective on the first of the month following at least thirty days' notice. It is FH policy to not process interim increases in Resident Rent between regular annual reexaminations except for those identified in Section 9.4.1of this policy. However, the family must still report changes to family composition or income to management within thirty days of their occurrence.

Decreases in the Resident Rent are effective the first of the month following the month in which the change is reported.

Procedures When the Change Is Not Reported by the Resident in a Timely Manner

If the family does not report the change as described under Timely Reporting, the family will have caused an unreasonable delay in the interim or annual reexamination processing and the following guidelines will apply:

Increase in Resident Rent will be effective retroactive to the date the increase in income became effective. The family will be liable for any underpaid rent, and may be required to sign a Repayment Agreement. The Repayment Agreement will require that the family pay 25% of the retroactive amount due and the remaining balance to be paid in equal payments over a period of time not to exceed 12 months for amounts under $2400 or 24 months for any amount in excess of

$2400. (Refer to Chapter 16 for further guidance).

Decrease in Resident Rent will be effective on the first of the month following completion of processing by FH and not retroactively.

Procedures When the Change Is Not Processed by FH in a Timely Manner

“Processed in a timely manner” means that the change goes into effect on the date it should when the family reports the change and provides all information, documents and signatures in a timely manner. If the change cannot be made effective on that date, the change is not processed by FH in a timely manner as stated below:

FH staff will initiate an appointment with the family no later than five (5) working days after the family reports the change to FH. Interim changes are to be completed within fifteen (15) working days after the family reports the change to FH.

Therefore, an increase will be effective after the required thirty days’ notice prior to the first of the month after completion of processing by FH.

If the change resulted in a decrease, the overpayment by the family will be calculated retroactively to the date it should have been effective, and the family will be credited for the amount.

9.4.5 REPORTING OF CHANGES IN FAMILY COMPOSITION

The members of the family residing in the unit must be approved by FH. The family must inform FH and request approval of additional family members other than additions due to birth, adoption, and court-awarded custody before the new member occupies the unit.

All changes in family composition must be reported within thirty (30) calendar days of the occurrence in writing.

If an adult family member is declared permanently absent by the head of household, the notice must contain a certification by the head of household [or spouse] that the member (who may be the head of household) removed is permanently absent.

Increase in Family Size

FH will consider a unit transfer (if needed under the Occupancy Guidelines) for additions to the family in the following cases:

- Addition by marriage/or marital-type relationship
- Addition of a minor who is a member of the nuclear family who had been living elsewhere
- Addition of a FH-approved live-in attendant
- Addition of any relation of the Head or Spouse
- Addition due to birth, adoption or court-awarded custody

If a change due to birth, adoption, court-awarded custody, or need for a live-in attendant requires a larger size unit due to overcrowding, the change in unit size shall be made effective upon availability of an appropriately sized unit. See Chapter 7 for verification requirements.

Definition of Temporarily/Permanently Absent

FH must compute all applicable income of every family member who is on the lease, including those who are temporarily absent.

Income of persons permanently absent will not be counted. If the spouse is temporarily absent and, in the military, all military pay and allowances (except hazardous duty pay when exposed to hostile fire and any other exceptions to military pay HUD may define) is counted as income.

It is the responsibility of the head of household to report changes in family composition. FH will evaluate absences from the unit in accordance with this policy.

Absence of Entire Family

These policy guidelines address situations when the family is absent from the unit, but has not moved out of the unit. In cases where the family has moved out of the unit, FH will terminate tenancy in accordance with the appropriate lease termination procedures contained in this Policy.

Families are required to notify FH before they move out of a unit in accordance with the lease and to give FH information about any family absence from the unit.

"Absence" means that no family member is residing in the unit. In order to determine if the family is absent from the unit, FH may:

- Conduct a home visit
- Write letters to the family at the unit Post letters on exterior door Telephone the family at the unit Interview neighbors
- Verify if utilities are in service
- Check with Post Office for forwarding address Contact emergency contact

If the entire family is absent from the unit for more than 14 consecutive days, whether or not rent has been paid, the unit will be considered to be abandoned and FH will terminate tenancy in accordance with Chapter 8 of this policy and the Resident Lease Agreement.

As a reasonable accommodation for a person with a disability, FH may approve an extension. (See Absence Due to Medical Reasons for other reasons to approve an extension.) During the period of absence, the rent and other charges must remain current.

Absence of Any Member

Any member of the household will be considered permanently absent and removed from the lease if s/he is away from the unit for 60 days in a 12-month period except as otherwise provided in this chapter.

Absence Due to Medical Reasons

If any family member leaves the household to enter a facility such as hospital, nursing home, or rehabilitation center, FH will seek advice from a reliable qualified source as to the likelihood and timing of their return. If the verification indicates that the family member will be permanently confined to a nursing home, the family member will be considered permanently absent. If the verification indicates that the family member will return in less than 180 consecutive days, the family member will not be considered permanently absent, as long as rent and other charges remain current. A resident may request in writing to have a longer absence approved. FH has full discretion of approval and will make determinations on a case-by-case basis.

If the person who is determined to be permanently absent is the sole member of the household, assistance will be terminated in accordance with FH "Absence of Entire Family" policy.

Absence Due to Incarceration

If the sole member is incarcerated for more than 60 consecutive days, s/he will be considered permanently absent. Any member of the household, other than the sole member, will be considered permanently absent if s/he is incarcerated for 60 consecutive days. The rent and other charges must remain current during this period.

Foster Care and Absences of Children

If the family includes a child or children temporarily absent from the home due to placement in foster care, FH will determine from the appropriate agency when the child/children will be returned to the home.

If the time period is to be greater than 18 months from the date of removal of the child(ren), the family will be required to move to a smaller size unit. If all children are removed from the home permanently, the unit size will be reduced in accordance with the FH occupancy guidelines.

Absence of Adult

If neither parent remains in the household nor the appropriate agency has determined that another adult is to be brought into the assisted unit to care for the children for an indefinite period, FH will treat that adult as a visitor for the first 30 calendar days. This will be noted as an exception to the FH Policy.

If by the end of that period, court-awarded custody or legal guardianship has been awarded to the caretaker, and the caretaker qualifies under Resident Suitability criteria, the lease will be transferred to the caretaker.

If the court has not awarded custody or legal guardianship, but the action is in process, FH will secure verification from social services staff or the attorney as to the status.

FH will transfer the lease to the caretaker, in the absence of a court order, if the caretaker qualifies under the Resident Suitability criteria and has been in the unit for more than 30 days and it is reasonable to expect that custody will be granted.

When FH approves a person to reside in the unit as caretaker for the child(ren), the income of the caretaker should be counted pending a final disposition. FH will work with the appropriate service agencies to provide a smooth transition in these cases.

If a member of the household is subject to a court order that restricts him/her from the home for more than 30 days, the person will be considered permanently absent.

If an adult child goes into the military and leaves the household, they will be considered permanently absent.

Full time students who attend school away from the home and live with the family during school recess will be considered temporarily absent from the household.

9.4.6 REMAINING MEMBER OF RESIDENT FAMILY—RETENTION OF UNIT

To be considered the remaining member of the resident family, the person must have been previously approved by FH to be living in the unit and must have signed the lease.

A minor who is a remaining family member will be authorized to remain in the unit by establishing emancipation or by adding another adult, who has been determined eligible and suitable by FH, to the Lease. When such situations arise, FH will work with the minor's advocate, which may be another adult relative or caseworker, to determine the appropriate course of action and time necessary for the minor to meet one of the two criteria to remain in the unit.

A live-in attendant, by definition, is not a member of the family and will not be considered a remaining member of the Family.

A reduction in family size may require a transfer to an appropriate unit size per the FH Occupancy Standards.

9.4.7 CHANGES IN UNIT SIZE

FH shall grant exceptions from the occupancy standards if the family requests and the FH determines the exceptions are justified according to this policy.

FH will consider the size of the family, as well as the number of bedrooms, when an exception is requested in accordance with Chapter 5, Occupancy Standards & Unit Offers.

9.4.8 CONTINUANCE OF ASSISTANCE FOR "MIXED" FAMILIES

Under the Non-Citizens Rule, "mixed" families are families that include at least one citizen or eligible immigrant and any number of ineligible members.

"Mixed" families who were participants on June 19, 1995, shall continue receiving full assistance if they meet the following criteria:

The head of household, co-head or spouse is a U.S. citizen or has eligible immigrant status; AND

- The family does not include any ineligible immigrants other than the head, spouse, parents or children of the head, co-head or spouse.

Mixed families who qualify for continued assistance after 11/29/96 may receive prorated assistance only.

9.5

9.5.1 INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS

FH will not reduce the public housing rent for families whose welfare assistance is reduced due to a “specified welfare benefit reduction,” defined below as “Imputed Welfare Income.” [24 CFR §5.615 (c)(5)].

The table below breaks down the possible reasons welfare benefit may be reduced or terminated and whether imputed welfare assistance needs to be included in the annual income.

Reasons for welfare benefits reduction or termination.	Is imputed welfare income included as annual income?
Due to limit of how long benefits may be received (expiration of lifetime benefits)	**No**, imputed welfare income is **not** included.
The family was not able to obtain required employment, however the family complied with the program economic self-sufficiency requirements.	**No**, imputed welfare income is **not** included.
The family has not complied with other welfare agency requirements, i.e. the family did not attend their welfare reexamination appointment.	**No**, imputed welfare income is **not** included.
Fraud by a family member in connection with the welfare program.	**Yes**, imputed welfare income **must** be included in income.
Noncompliance with the welfare agency requirements to participate in an economic self-sufficiency program, i.e. Welfare to Work (WTW).	**Yes**, imputed welfare income **must** be included in income.

Definition of “Covered Family”

A household that receives benefits for welfare or public assistance from a State or public agency program which requires, as a condition of eligibility to receive assistance, the participation of a family member in an economic self-sufficiency program.

Definition of “Imputed Welfare Income”

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

The amount of imputed welfare income is determined by FH, based on written information supplied to FH by the welfare agency, including:

The amount of the benefit reduction the term of the benefit reduction the reason for the reduction subsequent changes in the term or amount of benefit reduction.

Imputed welfare income will be included at annual and interim reexamination during the term of reduction of welfare benefits.

The amount of imputed welfare income will be offset by the amount of additional income a family receives that begins after the sanction was imposed. When additional income is at least equal to the imputed welfare income, the imputed income will be reduced to zero.

If the family was not an assisted resident of public housing when the welfare sanction began, imputed welfare income will not be included in annual income.

Verification Before Denying a Request to Reduce Rent

FH will obtain written verification from the welfare agency stating that the family's benefits have been reduced for fraud or noncompliance before denying the family's request for rent reduction.

FH will rely on the welfare agency's written notice to FH regarding welfare sanctions.

Cooperation Agreements

FH has a written cooperation agreement in place with the local welfare agency which assists FH in obtaining the necessary information regarding welfare sanctions.

FH has taken a proactive approach to culminating an effective working relationship between FH and the local welfare agency for the purpose of targeting economic self- sufficiency programs throughout the community that are available to public housing residents.

FH and the local welfare agency have mutually agreed to notify each other of any economic self-sufficiency and/or other appropriate programs or services that would benefit public housing residents.

Family Dispute of Amount of Imputed Welfare Income

If the family disputes the amount of imputed income and FH denies the family's request to modify the amount, FH will provide the resident with a notice of denial, which will include:

- An explanation for FH determination of the amount of imputed welfare income
- A statement that the resident may request a grievance hearing

If the resident requests a grievance hearing, the resident is not required to pay an escrow deposit pursuant to Section 966.55(e) for the portion of resident rent attributable to the imputed welfare income.

9.5.2 OTHER INTERIM REPORTING ISSUES

An interim reexamination will be scheduled for families with zero income every 90 days.

Any changes reported by residents other than those listed in this section will not be processed between regularly scheduled annual reexaminations.

9.5.3 FH ERRORS

If FH makes a calculation error at admission to the program or at an annual reexamination, an interim reexamination will be conducted to correct the error. If the family had been undercharged as a result of the calculation error, the family will not be charged retroactively. If the family had been overcharged as a result of the calculation error, the family will receive a rent credit retroactively.

9.5.4 REPORTING CHANGES IN INCOME AND ASSETS

TIMELY REPORTING CHANGES IN INCOME AND ASSETS

Standard for Timely Reporting of Changes for Reexaminations and Interims

FH requires that families report income, assets and family changes, to FH within thirty (30) calendar days of the date the change occurred. Any information, document or signature needed from the family to verify the change must be provided at the time of the reported change.

If the change is not reported within the required time period, or if the family fails to provide signatures, certifications or documentation, (in the time period requested by FH), it will be considered untimely reporting.

FH staff will initiate an appointment with the family no later than five (5) working days after the family reports the change to FH. Interim changes are to be completed within fifteen (15) working days after the family reports the change to FH.

Procedures When the Change Is Reported in a Timely Manner

FH will notify the family of any changes in Resident Rent to be effective according to the following guidelines:

Increases in the Resident Rent are effective on the first of the month following at least thirty days' notice. It is FH policy to not process interim increases in Resident Rent between regular annual reexaminations except for those identified in Section 9.4.1of this policy. However, the family must still report changes to family composition or income to management within thirty days of their occurrence.

Decreases in the Resident Rent are effective the first of the month following the month in which the change is reported.

Procedures When the Change Is Not Reported by the Resident in a Timely Manner

If the family does not report the change as described under Timely Reporting, the family will have caused an unreasonable delay in the interim or annual reexamination processing and the following guidelines will apply:

Increase in Resident Rent will be effective retroactive to the date the increase in income became effective. The family will be liable for any underpaid rent, and may be required to sign a Repayment Agreement. The Repayment Agreement will require that the family pay 25% of the retroactive amount due and the remaining balance to be paid in equal payments over a period of time not to exceed 12 months for amounts under $2400 or 24 months for any amount in excess of $2400. (Refer to Chapter 16 for further guidance).

Decrease in Resident Rent will be effective on the first of the month following completion of processing by FH and not retroactively.

Procedures When the Change Is Not Processed by FH in a Timely Manner

"Processed in a timely manner" means that the change goes into effect on the date it should when the family reports the change and provides all information, documents and signatures in a timely manner. If the change cannot be made effective on that date, the change is not processed by FH in a timely manner as stated below:

FH staff will initiate an appointment with the family no later than five (5) working days after the family reports the change to FH. Interim changes are to be completed within fifteen (15) working days after the family reports the change to FH.

Therefore, an increase will be effective after the required thirty days' notice prior to the first of the month after completion of processing by FH.

If the change resulted in a decrease, the overpayment by the family will be calculated retroactively to the date it should have been effective, and the family will be credited for the amount.

9.5.5 REPORTING OF CHANGS IN FAMILY COMPOSITION

The members of the family residing in the unit must be approved by FH. The family must inform FH and request approval of additional family members other than additions due to birth, adoption, and court-awarded custody before the new member occupies the unit.

All changes in family composition must be reported within thirty (30) calendar days of the occurrence in writing.

If an adult family member is declared permanently absent by the head of household, the notice must contain a certification by the head of household [or spouse] that the member (who may be the head of household) removed is permanently absent.

Increase in Family Size

FH will consider a unit transfer (if needed under the Occupancy Guidelines) for additions to the family in the following cases:

- Addition by marriage/or marital-type relationship
- Addition of a minor who is a member of the nuclear family who had been living elsewhere
- Addition of a FH-approved live-in attendant
- Addition of any relation of the Head or Spouse
- Addition due to birth, adoption or court-awarded custody

If a change due to birth, adoption, court-awarded custody, or need for a live-in attendant requires a larger size unit due to overcrowding, the change in unit size shall be made effective upon availability of an appropriately sized unit. See Chapter 7 for verification requirements.

Definition of Temporarily/Permanently Absent

FH must compute all applicable income of every family member who is on the lease, including those who are temporarily absent.

Income of persons permanently absent will not be counted. If the spouse is temporarily absent and, in the military, all military pay and allowances (except hazardous duty pay when exposed to hostile fire and any other exceptions to military pay HUD may define) is counted as income.

It is the responsibility of the head of household to report changes in family composition. FH will evaluate absences from the unit in accordance with this policy.

Absence of Entire Family

These policy guidelines address situations when the family is absent from the unit, but has not moved out of the unit. In cases where the family has moved out of the unit, FH will terminate tenancy in accordance with the appropriate lease termination procedures contained in this Policy.

Families are required to notify FH before they move out of a unit in accordance with the lease and to give FH information about any family absence from the unit.

“Absence” means that no family member is residing in the unit. In order to determine if the family is absent from the unit, FH may:

- Conduct a home visit
- Write letters to the family at the unit Post letters on exterior door Telephone the family at the unit Interview neighbors
- Verify if utilities are in service
- Check with Post Office for forwarding address Contact emergency contact

If the entire family is absent from the unit for more than 14 consecutive days, whether or not rent has been paid, the unit will be considered to be abandoned and FH will terminate tenancy in accordance with Chapter 8 of this policy and the Resident Lease Agreement.

As a reasonable accommodation for a person with a disability, FH may approve an extension. (See Absence Due to Medical Reasons for other reasons to approve an extension.) During the period of absence, the rent and other charges must remain current.

Absence of Any Member

Any member of the household will be considered permanently absent and removed from the lease if s/he is away from the unit for 60 days in a 12-month period except as otherwise provided in this chapter.

Absence Due to Medical Reasons

If any family member leaves the household to enter a facility such as hospital, nursing home, or rehabilitation center, FH will seek advice from a reliable qualified source as to the likelihood and timing of their return. If the verification indicates that the family member will be permanently confined to a nursing home, the family member will be considered permanently absent. If the verification indicates that the family member will return in less than 120 consecutive days, the family member will not be considered permanently absent, as long as rent and other charges remain current. A resident may request in writing to have a longer absence approved. FH has full discretion of approval and will make determinations on a case-by-case basis.

If the person who is determined to be permanently absent is the sole member of the household, assistance will be terminated in accordance with FH “Absence of Entire Family” policy.

Absence Due to Incarceration

If the sole member is incarcerated for more than 60 consecutive days, s/he will be considered permanently absent. Any member of the household, other than the sole member, will be considered permanently absent if s/he is incarcerated for 60 consecutive days. The rent and other charges must remain current during this period.

Foster Care and Absences of Children

If the family includes a child or children temporarily absent from the home due to placement in foster care, FH will determine from the appropriate agency when the child/children will be returned to the home.

If the time period is to be greater than 18 months from the date of removal of the child(ren), the family will be required to move to a smaller size unit. If all children are removed from the home permanently, the unit size will be reduced in accordance with the FH occupancy guidelines.

Absence of Adult

If neither parent remains in the household nor the appropriate agency has determined that another adult is to be brought into the assisted unit to care for the children for an indefinite period, FH will treat that adult as a visitor for the first 30 calendar days. This will be noted as an exception to the FH Policy.

If by the end of that period, court-awarded custody or legal guardianship has been awarded to the caretaker, and the caretaker qualifies under Resident Suitability criteria, the lease will be transferred to the caretaker.

If the court has not awarded custody or legal guardianship, but the action is in process, FH will secure verification from social services staff or the attorney as to the status.

FH will transfer the lease to the caretaker, in the absence of a court order, if the caretaker qualifies under the Resident Suitability criteria and has been in the unit for more than 30 days and it is reasonable to expect that custody will be granted.

When FH approves a person to reside in the unit as caretaker for the child(ren), the income of the caretaker should be counted pending a final disposition. FH will work with the appropriate service agencies to provide a smooth transition in these cases.

If a member of the household is subject to a court order that restricts him/her from the home for more than 30 days, the person will be considered permanently absent.

If an adult child goes into the military and leaves the household, they will be considered permanently absent.

Full time students who attend school away from the home and live with the family during school recess will be considered temporarily absent from the household.

9.5.6 REMAINING MEMBER OF RESIDENT FAMILY-RETENTION OF UNIT

To be considered the remaining member of the resident family, the person must have been previously approved by FH to be living in the unit and must have signed the lease.

A minor who is a remaining family member will be authorized to remain in the unit by establishing emancipation or by adding another adult, who has been determined eligible and suitable by FH, to the Lease. When such situations arise, FH will work with the minor's advocate, which may be another adult relative or caseworker, to determine the appropriate course of action and time necessary for the minor to meet one of the two criteria to remain in the unit.

A live-in attendant, by definition, is not a member of the family and will not be considered a remaining member of the Family.

A reduction in family size may require a transfer to an appropriate unit size per the FH Occupancy Standards.

9.5.7 CHANGES IN UNIT SIZE

FH shall grant exceptions from the occupancy standards if the family requests and the FH determines the exceptions are justified according to this policy.

FH will consider the size of the family, as well as the number of bedrooms, when an exception is requested in accordance with Chapter 5, Occupancy Standards & Unit Offers.

9.4.8 CONTINUANCE OF ASSISTANCE FOR "MIXED" FAMILIES

Under the Non-Citizens Rule, "mixed" families are families that include at least one citizen or eligible non-citizen and any number of ineligible members.

"Mixed" families who were participants on June 19, 1995, shall continue receiving full assistance if they meet the following criteria:

The head of household, co-head or spouse is a U.S. citizen or has eligible non-citizen status; AND

- The family does not include any ineligible immigrants other than the head, spouse, parents or children of the head, co-head or spouse.

Mixed families who qualify for continued assistance after 11/29/96 may receive prorated assistance only.

If the mixed families do not qualify for continued assistance, the member(s) that cause the family to be ineligible for continued assistance may move, or the family may choose prorated assistance.

9.5.5 PUBLIC HOUSING OVER-INCOME FAMILIES [24 CFR 960.507(c); NOTICE PIH 2020-3; and NOTICE PIH 2023-27]

Regardless of changes in adjusted income, in some circumstances FH is required to conduct an interim reexamination to determine whether a family's income continues to exceed the public housing over-income limit. FH is required to conduct income examinations of public housing families who have been determined to exceed the over-income limit at specific intervals. When FH makes an initial determination that a family is over-income during an interim reexamination, FH must conduct a second interim reexamination 12 months after the over-income determination, and then again 12 months after the second over-income determination, unless the family's income falls below the over-income limit during the 24-month period. This continued evaluation of the family's over-income status requires FH to notify any family that exceeds the over-income limit that they remain over the income limit, even if the family is paying the flat rent [24 CFR 960.253]. An interim income reexamination to determine if a public housing family remains over-income does not reset the family's normal annual reexamination date.

9.5.6 FAMILY REPORTING

The family will be required to report all changes in income regardless of the amount of the change, whether the change is to earned or unearned income, or if the change occurred during the last three months of the certification period. Families must report changes in income within 30 Calendar days of the date the change takes effect. The family may notify FH of changes either orally or in writing, including email. If the family provides oral notice, FH may also require the family to submit the changes in writing, including email.

Within 10 business days of the family reporting the change, FH will determine whether the change will require an interim reexamination.

> If the change will not result in an interim reexamination, FH will note the information in the tenant file but will not conduct an interim reexamination. FH will send the family written notification (which may be emailed) within 10 business days of making this determination informing the family that FH will not conduct an interim reexamination.
>
> If the change will result in an interim reexamination, FH will determine the documentation the family will be required to submit based on the type of change reported and FH policies in Chapter 7. FH will ask the family to report changes in all aspects of adjusted income at this time. The family must submit any required information or documents within 10 business days of receiving a request from FH. This time frame may be extended for good cause with FH approval. FH will accept required documentation by mail, email, or in person. FH will conduct the interim within a reasonable time period based on the amount of time it takes to verify the information.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if the FH determines that an interview is warranted, the family may be required to attend.

9.6 PART IV: RECALCULATING TENANT RENT

OVERVIEW

For those families paying income-based rent, FH 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.

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

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

Unless the FH 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.

NOTIFICATION OF NEW TENANT RENT

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

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

DISCREPANCIES

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

9.7 PART V: NON-INTERIM REEXAXMINATION TRANSACTION

Notice PIH 2023-27

Families may experience changes within the household that do not trigger an interim reexamination under FH policy and HUD regulations but which HUD still requires FH to report via Form HUD-50058. These are known as *non-interim reexamination transactions*. In these cases, FH will submit a separate, new action code on Form HUD-50058. The following is a list of non-interim reexamination transactions:

- Adding or removing a hardship exemption for the child care expense deduction;
- Updating or removing the phased-in hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction (the phased-in relief will begin at an eligible family's first annual or interim reexamination, whichever is sooner, after January 1, 2024);

- Adding or removing general hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction;
- Adding or removing a minimum rent hardship;
- Adding or removing a non-family member (i.e., live-in aide, foster child, foster adult);
- Adding a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Removing a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Adding/updating a family or household member's Social Security number; and
- Updating a family member's citizenship status from eligible to ineligible or vice versa, resulting in a change to the family's rent and/or utility reimbursement, if applicable (i.e., family begins receiving prorated assistance or previously prorated assistance becomes full assistance), or updating the prorated rent calculation due to the addition or removal of family members in household with an ineligible noncitizen(s).

FH must make all other changes to assets, income, and deductions at the next annual or interim reexamination of income, whichever is sooner.

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CHAPTER 10 – ASSISTANCE ANIMALS AND PETS

[24 CFR 5, SUBPART C; 24 CFR 960, SUBPART G]

10.1 INTRODUCTION

This chapter explains the FH's policies on the keeping of assistance animals and pets, and describes any criteria or standards pertaining to the policies. The rules adopted are reasonably related to the legitimate interest of FH 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 FH.

Nothing in this policy or the dwelling lease limits or impairs the right of persons with disabilities to own animals that are used to assist them.

Part I: Assistance Animals. This part explains the difference between assistance animals including service and support animals, and contains policies related to the designation of a service animal or assistance animal as well as their care and handling.

Part II: Pet policies for all developments. This part includes pet policies that are common to both elderly/disabled developments and general occupancy developments.

Part III: Assistance Animals and Pet-related Charges and Damages for all developments. This part contains policies regarding residents are responsible for the actual and reasonable costs of repairing or cleaning any damage caused by their pet or assistance animal to their unit or common areas, consistent with applicable laws and HUD requirements

Part IV: Pet deposits and

10.2 PART I: ASSISTANCE ANIMALS [SECTION 504; FAIR HOUSING ACT (42 U.S.C.); 24 CFR 5.303; 24 CFR 960.705;]

10.2.1 OVERVIEW

This part discusses situations under which permission for an assistance animal, including service and support animals, may be denied and establishes standards for the care of assistance animals.

. While the ADA applies to the premises of public housing agencies and to "public accommodations" such as stores and movie theatres, it does not apply to private-market rental housing. Therefore, in public housing, FH must evaluate a request for a service animal under both the ADA and the Fair Housing Act.

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

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

- Assistance animals are animals that work, provide assistance, or perform tasks for the benefit of a person with a disability, or are animals that provide emotional support that alleviates one or more identified symptoms or effects of a person's disability.

Assistance animals perform many disability-related functions, including but not limited to, the following:

- Guiding blind or low vision individuals alerting deaf or hearing impaired individuals
- Providing minimal protection or rescue assistance Pulling a wheelchair
- Fetching items, such as medicine or a phone Alerting persons to impeding seizures
- Providing emotional support to persons with disabilities who have a disability-related needed for such support.

Assistance animals, including service and support animals, are not pets and thus are not subject to the FH's pet policies described in this chapter [24 CFR 5.303; 960.705].

10.2.2 APPROVAL OF ASSISTANCE ANIMALS

The FH 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.

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

FH 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

If the animal meets the test for "service animal," the animal must be permitted to accompany the individual with a disability to all areas of the facility where persons are normally allowed to go,

If the animal does not qualify as a service animal under the ADA, the FH 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].

FH may not refuse to allow a person with a disability to have an assistance animal merely because the animal does not have formal training. Some, but not all, animals that assist persons with disabilities are professionally trained. Other assistance animals are trained by the owners themselves and, in some cases, no special training is required.

The question is whether or not the animal performs the assistance or provides the benefit needed by the person with the disability [PH Occ GB, p. 178].

FH'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, or
- There is reliable objective evidence that the animal would cause substantial physical damage to the property of others

FH has the authority to regulate services animals and assistance animals under applicable federal, state, and local law [24 CFR 5.303(b)(3); 960.705(b)(3)].

- For an animal to be excluded from the pet policy and be considered a service animal, it must be a trained dog's services, and there must be a person with disabilities in the household who requires the dog's services.

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

10.2.3 CARE AND HANDLING

HUD regulations do not affect any authority FH may have to regulate service animals and assistance animals under federal, state, and local law [24 CFR 5.303; 24 CFR 960.705].

- Residents must care for assistance animals in a manner that complies with state and local laws, including anti-cruelty laws.
- Residents must ensure assistance animals do not pose a direct threat to the health or safety of others, or cause substantial physical damage to the development, dwelling unit, or property of other residents.
- When a resident's care or handling of an assistance animal violates these policies, the FH will consider whether the violation could be reduced or eliminated by a reasonable accommodation. If the FH determines that no such accommodation can be made, the FH may withdraw the approval of a particular service or assistance animal.

10.3 PART II: PET POLICIES FOR ALL DEVELOPMENTS [24 CFR 5, SUBPART C; 24 CFR 960, SUBPART G]

10.3.1 OVERVIEW

This part contains pet policies that apply to all developments. 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. This part contains pet policies that apply to all developments.

10.3.2 DEFINITION OF "COMMON HOUSEHOLD PET"

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

10.3.3 STANDARDS FOR PETS [24 CFR 5.318; 960.707(B)] TYPES OF PETS ALLOWED

Only the following types of pets may be kept by a resident.

Residents are not permitted to have more than two (2) common household pets per household , i.e., 2 birds, 2 dogs, 2 cats, 1 dog and 1 cat etc.

Dogs

- Maximum adult weight: 25 pounds
- Must be housebroken Must be spayed or neutered before six (6) months of age
- Must have all required inoculations
- Must be licensed as specified now or in the future by State law and local ordinance
- Any litter resulting from the pet must be removed from the unit as soon as the puppies are weaned or are eight weeks of age.

Cats

- Must be a household cat
- Must be spayed or neutered before six (6) months of age
- Must have all required inoculations
- Must be trained to use a litter box or other waste receptacle
- Must be licensed as specified now or in the future by State law or local ordinance
- Any litter resulting from the pet must be removed from the unit as soon as the kittens are weaned or are eight weeks of age.

Birds

- Must be enclosed in a cage at all times

Fish

- Maximum aquarium size: 10 gallons
- Must be maintained on an approved stand.

10.3.4 PET RESTRICTIONS

The following are not considered “common household pets”:

- Domesticated dogs that exceed Twenty-five pounds. (Animals certified to assist the disabled are exempt from the weight limitation.
- Vicious Under California law (Food and Agriculture Code Sec. 31603), a “vicious” dog is defined as, but not limited to:
    a. Any dog seized under Section 599aa of the California Penal Code and upon the sustaining of a conviction of the owner or keeper under subdivision (a) of Section 597.5 of the Penal Code.
    b. Any dog which, when unprovoked, in an aggressive manner, inflicts severe injury on or kills a human being.
    c. Any dog previously determined to be and currently listed as a potentially dangerous dog which, after its owner or keeper has been notified of this determination, continues the behavior described in Section 31602 or is maintained in violation of Section 31641, 34642, or 31643.
    d. Any dog breeds that have been determined to be “potentially dangerous” or “vicious” under California law or local animal control municipal code.
- Wild, feral, or any other animals that are not amenable to routine human handling
- Any poisonous animals of any kind
- Fish in aquariums exceeding ten gallons in capacity
- Non-human primates
- Animals whose climatological needs cannot be met in the unaltered environment of the individual dwelling unit
- Pot-bellied pigs
- Ferrets or other animals whose natural protective mechanisms pose a risk of serious bites and/or lacerations
- Hedgehogs or other animals whose protective instincts and natural body armor produce a risk of serious puncture injuries.
- Chicks, turtles, or other animals that pose a significant risk of salmonella infection to those who handle them
- Pigeons, doves, mynahs, parrots and birds of other species that are hosts to the organisms that cause psittacosis in humans
- Snakes or other kinds of reptiles

- Rodents (rabbit, guinea pig, or hamster)
- Animals used for commercial breeding
- Any other animal that, due to its size, nature, or disposition, presents a risk to public health or safety or cannot be properly cared for due to its physical needs.

10.3.5 MANAGEMENT APPROVAL OF PETS [24 CFR 960.707(B)(5)]

Pets are not permitted in the dwelling unit or on the premises until written approval has been obtained from FH. Residents must complete all required pet registration procedures and provide all required documentation before approval will be granted.

- **Registration** includes a certificate 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.
- **Annual Pet Registration Renewal** Pet registrations must be renewed annually. The renewal process will be coordinated with the resident's annual reexamination. At each annual reexamination, residents must provide current documentation verifying that the pet's license and required vaccinations are up to date. must be renewed and will be coordinated with the annual reexamination date and proof of current license and inoculation must be provided at each annual reexamination.
- **Pet Identification and Posting Requirements: Posting:** Each pet owner must provide two (2) current color photographs of each approved pet annually. FH may require residents to display a "Pet Here" identification sticker, provided by FH, on the entrance door of the dwelling unit at all times to identify the presence of an approved pet. Each pet owner must provide two color photographs of their pet(s) each year and display a "Pet Here" sticker, provided by FH, which will be displayed on the front door of the unit at all times.

10.3.6 REFUSAL TO REGISTER PETS

If FH denies the request to register a pet, a written notification will be sent to the pet owner stating the reason for denial and shall be served in accordance with HUD Notice requirements. FH will refuse to register a pet if:

- The pet is not a "common household pet" as defined in this policy;
- Keeping the pet would violate any House Rules;
- The pet owner fails to provide complete pet registration information, or fails to update the registration annually;
- FH reasonably determines that the pet owner is unable to keep the pet in compliance with the pet rules and other lease obligations. The pet's temperament and behavior may be considered as a factor in determining the pet owner's ability to comply with provisions of the lease.

The notice of refusal may be combined with a notice of a pet violation.

10.3.7 PET AGREEMENT

Residents who have been approved to have a pet must enter into a pet agreement with FH, or the approval of the pet will be withdrawn.

The pet agreement is the resident's certification that he or she has received a copy of FH pet policy and applicable house rules, that he or she has read the policies and/or rules, understands them, and agrees to comply with them.

The resident further certifies by signing the pet agreement that he or she understands that noncompliance with FH pet policy and applicable house rules may result in the withdrawal of FH approval of the pet or termination of tenancy.

10.3.8 PET RULES

Pet owners must maintain pets responsibly, in accordance with the FH policies, and in compliance with applicable state and local public health, animal control, and animal cruelty laws and regulations [24 CFR 5.315; 24 CFR 960.707(a)].

Residents who have been approved to have a pet must adhere to the following rules:

- Agree that the resident is responsible and liable for all damages caused by their pet(s).
- No animals may be tethered or chained inside the dwelling unit.
- When outside the dwelling unit, all pets must be on a leash or in an animal transport enclosure and under the control of a responsible individual. Pets must not be chained and left unattended outside.
- All fecal matter deposited by the pet(s) must be promptly and completely removed from any common area. Failure to do so will result in a Pet Waste Removal charge in accordance with Schedule of Maintenance Charges for labor. All animal waste or the litter from litter boxes shall be picked up immediately by the pet owner, disposed of in sealed plastic trash bags, and placed in a trash bin. Litter shall not be disposed of by being flushed through a toilet.
- Litter boxes shall be stored inside the resident's dwelling unit or in animal enclosures maintained within dwelling units AND must be removed and/or replaced regularly. Failure to do so will result in a Pet Waste Removal charge.
- Mandatory implementation of effective flea control by measures that produce no toxic hazard to children who may come into contact with treated animals.
- All complaints of cruelty and all mammalian bites will be referred to animal control of applicable policy agency for investigation and enforcement.
- Deceased pets shall be properly disposed by Fresno County Animal Control Services where applicable and shall not be disposed on Fresno Housing property.
- The right of management to enter dwelling unit upon receipt of notice from FH.

- The right of management to enter dwelling unit when there is evidence that an animal left alone is in danger or distress, or is creating a nuisance.
- The right of management to seek impoundment and sheltering of any animal found to be maintained in violation of housing rules, pending resolution of any dispute regarding such violation, at owner's expense. The resident shall be responsible for any impoundment fees, and the FH accepts no responsibility for pets so removed.
- That failure to abide by any animal-related requirement or restriction constitutes a violation of the "Resident Obligations" in the resident's Lease Agreement.
- Visiting animals are not allowed at any time.

10.3.9 PET CARE

No pet (excluding fish) shall be left unattended in any apartment for a period in excess of 24 hours.

All residents/pet owners shall be responsible for adequate care, nutrition, exercise and medical attention for their pet.

In the event the resident relocates to non-FH owned property (such as privately-owned apartment complex or hotel) at the request of FH to complete emergency repairs to the resident's unit and/or to complete modernization and/or rehabilitation activities, the resident shall have the responsibility for the board and care of their pet during the duration of the resident's relocation to non-FH owned property.

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

The following areas are designated no-pet areas:

- FH playgrounds, management offices, community centers, and recreation center areas.

10.3.11 ALTERATIONS TO UNIT

Residents/pet owners shall not alter their unit, patio, premises or common areas to create an enclosure for any animal. Installation of pet doors is prohibited.

10.3.12 ADDITIONAL REQUIREMENTS

Pet owners must take precautions to eliminate pet odors.

Residents will prevent disturbances by their pets that interfere with the quiet enjoyment of the premises of other residents in their units or in common areas. This includes, but is not limited to loud or continuous barking, howling, whining, biting, scratching, chirping, or other such activities.

Residents shall not feed stray animals; doing so, or keeping stray or unregistered animals will be considered having a pet without permission.

10.3.13 RESPONSIBLE PARTIES

The resident will provide the following information when registering their pet: Name, address and telephone number of the veterinarian who will be providing regular care for the pet.

The pet owner will be required to designate a responsible party 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.

10.3.14 PET RULE VIOLATION NOTICE

If a determination is made on objective facts supported by written statements that a resident/pet owner has violated the Pet Rule Policy, FH will serve a 10 day to perform covenants.

10.3.15 NOTICE FOR PET REMOVAL

If the resident/pet owner and FH are unable to resolve the violation at the meeting or the pet owner fails to correct the violation in the time period allotted by FH, FH may serve notice to remove the pet. The Notice shall contain:

- A brief statement of the factual basis for FH determination of the Pet Rule that has been violated; and
- A statement that failure to remove the pet may result in the initiation of termination of tenancy procedures.

10.3.16 TERMINATION OF TENANCY

FH may initiate procedure for termination of tenancy based on a pet rule violation if, the pet owner has failed to remove the pet or correct a pet rule violation within the time period specified; and the pet rule violation is sufficient to begin procedures to terminate tenancy under terms of the lease.

10.3.17 PET REMOVAL

If the death or incapacity of the pet owner threatens the health or safety of the pet, or other factors occur that render the owner unable to care for the pet, the situation will be reported to the Responsible Party designated by the resident/pet owner. Includes pets who are poorly cared for or have been left unattended for over 24 hours.

If the responsible party is unwilling or unable to care for the pet, or if the FH after reasonable efforts cannot contact the responsible party, FH may contact the appropriate State or local agency and request the removal of the pet.

10.3.18 EMERGENCIES

FH will take all necessary steps to insure that pets, which become vicious, display symptoms of severe illness, or demonstrate behavior that constitutes an immediate threat to the health or safety of others, are referred to the appropriate State or local entity authorized to remove such animals.

IF IT IS NECESSARY FOR FH TO PLACE THE PET IN A SHELTER FACILITY, THE COST WILL BE THE RESPONSIBILITY OF THE RESIDENT/PET OWNER.

10.4 PART III: Assistance Animals and PET-rELATED Charges and DAMAGES FOR all Developments

10.4.1 Assistance Animals PET-RELATED CHARGES And Damages -

FH may require residents who own or keep approved pets in their units to comply with all applicable pet-related requirements established by FH, HUD regulations, and applicable federal, state, and local laws.

The resident is responsible for all reasonable costs and expenses directly attributable to the presence of a pet in the dwelling unit or common areas, including but not limited to:

- Repair or replacement of damaged property, fixtures, or other items in the dwelling unit;
- Cleaning, deodorizing, pest treatment, or fumigation required due to the presence of the pet; and
- Damages to common areas of the development caused by the pet.

Any charges assessed for pet-related damages shall be limited to actual and reasonable costs incurred by FH and shall be handled in accordance with the lease, FH policies, HUD requirements, and applicable law.

10.4.2 OTHER CHARGES

Pet Waste Removal Charge

A separate pet waste removal charge in accordance with Schedule of Maintenance Charges for labor per occurrence will be assessed against the resident for violations of the pet policy.

Pet waste removal charges are not part of rent payable by the resident.

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CHAPTER 11- COMMUNITY SERVICE REQUIREMENT

[24 CFR Part 960 Subpart F, 960.600 through 960.609 and 24 CFR 903.7(l)]

11.1 INTRODUCTION

This chapter explains HUD regulations requiring FH to implement a community service program as authorized by the Quality Housing and Work Responsibility Act of 1998. For all non-exempt adults living in public housing.

This chapter describes eligible activities, responsivities of both FH and residents and how FH is to document compliance. All PHAs operating HUD regulations pertaining to the community service requirement are contained in 24 CFR 960 Subpart F (960.600 through 960.609). FH and residents must comply with the community service requirement, effective with FH fiscal years that commenced on or after October 1, 2000. Per 903.7(l)(1)(iii), FH Plan contains a statement of how FH will comply with the community service requirement, including any cooperative agreement that FH has entered into or plans to enter into.

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

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

11.1.1 REQUIREMENTS

Except for any adult resident who is an exempt individual, each adult resident of public housing shall:

- Contribute eight (8) hours per month of community service (not including Political activities); or
- Participate in an economic self-sufficiency program (as defined in the regulations) for eight (8) hours per month; or
- Perform eight (8) hours per month of combined activities. (Community service and economic self-sufficiency programs).
- The required community service or self-sufficiency activity may be completed 8 hours each month or may be aggregated across a year. Any blocking of hours is acceptable as long as 96 hours is completed by each annual certification of compliance [Notice PIH 2015-12].

11.1.2 DEFINITIONS

Exempt Individual [24 CFR 960.601(b), Notice PIH 2015-12]

FH shall provide an exemption from the community service requirement for any adult resident who meets the following HUD exemption criteria:

- Is 62 years of age or older;
- Is a blind or disabled individual, as defined under section 216 (i)(1) of 1614 of the Social Security Act (42 U.S.C. 416 (i) (I)(1); 1382(c), and who certifies that because of this disability she or he is unable to comply with the service provisions of this subpart, or:
- Is a primary caretaker of such individual;
- Is engaged in a work activity as defined in PIH Notice 2003-17 and section 407(d) of the Social Security Act (42 USC Section (d); FH will consider 30 hours per week as the minimum number of hours needed to qualify for a work activity exemption.
- Is able to meet the 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 public housing authority is located, including a State-administered welfare-to-work program, and has not been found by the State or other administering entity to be in noncompliance with such program.
- Is a member of a family receiving assistance, benefits, or services under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the FH is located, including a state- administered welfare-to-work program, and the supplemental nutrition assistance program (SNAP) and has not been found by the state or other administering entity to be in noncompliance with such program.
- Is a part-time student enrolled in at least six (6) credits and is working part-time at least 15 hours a week.

Community Service [24 CFR 960.601(b), Notice PIH 20015-12]

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

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

- Local public or nonprofit institution such as: school, head start programs, before or after school programs, child care center, hospital, clinics, hospice, nursing homes recreation center, senior center, adult day care programs, homeless shelter, feeding program, food banks, distributing either donated or commodity foods or clothes closets, distributing donated clothing.

- Nonprofit organizations serving FH residents or their children such as: Boy or Girl Scouts, Boys and Girls Club, 4-H club, Police Activities League (PAL) organized children's recreation, mentoring or education programs, Big Brothers or Big Sisters, garden centers, community clean-up programs, beautification programs.
- Programs funded under the Older Americans Act, such as Green Thumb, Service Corps

of Retired Executives, senior meals programs, senior centers, and 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.
- FH housing to improve grounds or provide gardens (so long as such work does not alter the FH's insurance coverage); or work through resident organizations to help other residents with problems, including serving on the Resident Advisory Board and assistance with FH run self-sufficiency activities including supporting computer learning centers.
- Caring for the children of other residents so they may volunteer

NOTE: Community services at profit-motivated entities, volunteer work performed at homes or offices of general private citizens, political activity, and court-ordered or probation-based work will not be considered eligible community service activities.

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

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

These economic self-sufficiency programs include: job training, employment counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management skills training, apprenticeship, or any other program necessary to ready a participant for employment.

In addition to the activities listed above, the FH authorizes the following economic self- sufficiency activities:

- Participation in FH Family Self Sufficiency Program;
- Job readiness or job training while unemployed;
- Apprenticeships (formal or informal);
- Reading, financial and/or computer literacy classes;
- English as a second language and/or English proficiency classes;
- Budgeting and credit counseling
- Other activities which further the goals of economic self-sufficiency as approved on an individual basis by FH.

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

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

- Unsubsidized employment
- Subsidized private sector employment

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

Notification Requirements [24 CFR 960.605(c)(2)] **Notice PIH 2015-12, Notice PIH 2016- 06]**

FH will provide the family with a copy of the Community Service Policy found in Exhibit 11-1 (located at the end of this ACOP under "Exhibits"), at lease-up, lease renewal, when a family member is determined to be subject to the community service requirement during the lease term, and at any time upon the family's request.

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

11.1.3 DETERMINATION OF EXEMPTION STATUS AND COMPLIANCE [24 CFR 960.605(C)(3)

FH is required to set out in their Admission and Continued Occupancy Policy (ACOP) how FH determines if an individual is exempt from the Community Service Requirement and the documentation needed to support the exemption.

FH must review and verify family compliance with community 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 community service requirements may be found in Section 11.1.4 Documentation and Verification.

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

Annual Determination

Determination of Exemption Status

FH will re-verify exemption status at the annual reexamination, except for individuals who are exempt because they are 62 years of age and older, verification of exemption status will be done only at the initial examination.

Determination of Compliance

For each adult resident subject to the community service requirement, the FH shall, 30 days before the expiration of the annual reexamination or Lease Agreement [24 CFR 960.605(c)(3)], review and determine compliance with the community service requirement of all non-exempt family members..

Such determinations shall be made in accordance with the principles of due process and on a non-discriminatory basis.

Adult residents will not be permitted to self-certify their compliance with the community service requirement.

Approximately 60 days prior to the end of the lease term, FH will provide written notice requiring the family to submit documentation that all subject family members have complied with the service requirement. The family will have 10 business days to submit FH required documentation form(s).

If the family fails to submit the required documentation within the required timeframe, or FH approved extension, the subject family members will be considered noncompliant with community service requirements, and notices of noncompliance will be issued pursuant to the policies in Section 11.4, Noncompliance

Change in Status

Exempt to Nonexempt Status

If an exempt individual becomes nonexempt during the twelve-month lease term, it is the Family's responsibility to report this change to the FH within 10 business days.

Within 10 business days of a family reporting such a change, or the FH determining such a change is necessary, the FH will provide written notice of the effective date of the requirement and a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which the family member may record the activities performed and number of hours contributed.

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

Determination of Initial Compliance

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

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

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

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

Ms. Dewhurst must perform months of community service in her initial compliance period, before the end of the lease term (anniversary date)

11.1.4 DOCUMENTATION AND VERIFICATION [24 CFR 960.605(C)(4)] .960.607. NOTICE PIH 2016-08}

FH must retain reasonable documentation of community service requirement performance or exemption in participant files.

Documentation and Verification of Exemption Status

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

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

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

Documentation and Verification of Compliance

At each regularly scheduled reexamination, each nonexempt family member presents a signed standardized certification form developed by FH of community service and self- sufficiency activities performed over the last 12 months [Notice PIH2015-12].

If qualifying community service activities are administered by an organization other than FH, a family member who is required to fulfill a community service requirement must provide certification to FH, signed by the organization, that the family member has performed the qualifying activities [24 CFR 960.607].

If anyone in the family is subject to the community service requirement, FH will provide the family with community service documentation forms at admission, at lease renewal, when a family member becomes subject to the community service requirement during the lease term, or upon request by the family.

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

Families will be required to submit the documentation to FH, upon request by the FH.

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

11.1.5 NONCOMPLIANCE

NONCOMPLIANT RESIDENTS

The lease specifies that it is renewed automatically for all purposes, unless the family fails to comply with the community service requirement. Violation of the community 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)].

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

- A brief description of the finding of non-compliance with CSSR
- A statement that the FH 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 FH or the family provides written assurance that is satisfactory to the FH 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 noncompliant family member will comply with the CSSR requirement.

Notice of Initial Noncompliance [24 CFR 960.607(b)]

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

FH Policy

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

The family will have 10 business days from the date of the notice of noncompliance to enter into a written workout 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 FH 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 corrective action required by the notice of noncompliance within the required 10-business day timeframe, the FH will terminate tenancy.

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

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

- Adequate notice to the resident of the grounds for terminating the tenancy and for non-renewal of the lease;
- Right of the resident to be represented by counsel;
- Opportunity for the resident to refute the evidence presented by the FH, 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.

If FH determines that an adult resident subject to the community service requirement has not complied with the requirement, FH shall:

- Notify the adult resident of such noncompliance;
- Include in the notification that the determination of noncompliance is subject to the administrative grievance procedure under the FH’s Grievance Procedures; and
- Unless the resident enters into an agreement to comply with the community service requirement, the adult resident’s Lease Agreement will not be renewed; and
- FH may not renew or extend the resident’s Lease Agreement upon expiration of the lease term and shall take such action as is necessary to terminate the tenancy of the household, unless FH enters into an agreement, before the expiration of the lease term,

with the resident providing for the resident to cure any noncompliance with the community service requirement, by participating in an economic self-sufficiency program or contributing to community service as many additional hours as the resident needs to comply in the aggregate with such requirement over the 12-month term of the lease.

11.1.6 INELIGIBILITY FOR OCCUPANCY FOR NONCOMPLIANCE

FH shall not renew or extend any Lease Agreement, or provide any new Lease Agreement, for a dwelling unit for any household that includes an adult resident who was subject to the community service requirement and failed to comply with the requirement.

HUD Oversight

HUD will generate and post the Community Service monitoring report on a quarterly basis based on information collected through FH submission of the Form HUD-50058 for families in public housing.

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Chapter 12 – Transfer Policy

12.1 INTRODUCTION

It is the policy of FH to permit a resident to transfer within or between housing developments under certain conditions (i.e., to be in closer proximity to work); when it is necessary to comply with occupancy standards; or when it will help accomplish the affirmative housing goals of FH.

FH will always consider transfer requests as a reasonable accommodation for a person with a disability.

Transfers will be made without regard to race, , color, sex, religion, familial status, disability, national origin, marital status, actual or perceived sexual orientation, gender identity, ancestry, gender, or gender expression, in accordance with the Fair Housing Act, HUD's Equal Access Rule, or State and local anti-discrimination laws. Residents can be transferred to accommodate a disability.

Residents will receive one unit offer for a transfer, whether for FH-initiated transfers or resident-initiated transfer requests approved by FH. Refusal of that offer without good cause will result in lease termination for mandatory transfers or the removal of the household from the transfer list for voluntary transfers.

The Agency designee shall retain discretionary authority to approve/disapprove all transfers. This chapter describes HUD regulations and FH policies related to transfers in four parts:

Part I: Emergency Transfers. This part describes emergency transfers, emergency transfer procedures, and payment of transfer costs.

Part II: FH Required Transfers. This part describes types of transfers that may be required by FH, notice requirements, and payment of transfer costs.

Part III: Transfers Requested by Residents. This part describes types of transfers that may be requested by residents, eligibility requirements, security deposits, payment of transfer costs, and handling of transfer requests.

Part IV: Transfer Processing. This part describes creating a waiting list, prioritizing transfer requests, the unit offer policy, examples of good cause, deconcentration, transferring to another development and reexamination.

12.2 PART I: EMERGENCY TRANSFERS

12.2.1 OVERVIEW

HUD categorizes certain actions as emergency transfers [PH Occ GB, p. 147]. The emergency transfer differs from a typical transfer in that it requires immediate action by FH.

In the case of a genuine emergency, it may be unlikely that FH 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, FH will 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 reached.

12.2.2 EMERGENCY TRANSFERS

If the dwelling unit is damaged to the extent that conditions are created which are hazardous to life, health, or safety of the occupants, FH will offer standard alternative accommodations, if available, where necessary repairs cannot be made within a reasonable time [24 CFR 966.4(h)].

VAWA requires FH to adopt an emergency transfer plan for victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking. Exhibit 16.3

The following are considered emergency circumstances warranting an immediate transfer of the resident or family:

Maintenance conditions in the resident's unit, building or at the site that pose an immediate, verifiable threat to the life, health or safety of the resident or family members that cannot be repaired or abated within 24 hours. The family is entitled to alternative accommodations even if the resident, household member, guest, or other covered person is responsible for the damage that caused the hazard or if the family is in the process of being evicted. [24 CFR 966.4(h)}. Examples of such unit or building conditions would include:

- A gas leak;
- Fire
- No heat in the building during the winter;
- No water; toxic contamination;
- Serious water leaks.

A verified incident of domestic violence, dating violence, sexual assault, stalking, or human trafficking. For instances of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the threat may be established through documentation outlined in section 16-22, or by any proof accepted by FH.

FH will immediately process requests for transfers due to domestic violence, dating violence, sexual assault, , stalking, or human trafficking once a full request is received and absent of any conflicting information. FH will allow a resident to make an internal emergency transfer under VAWA when a safe unit is immediately available, as applicable and without disclosing the victim's location. If an internal transfer to a safe unit is not immediately available, FH will assist the resident in seeking an external emergency transfer either within or outside the housing program.

FH has adopted an emergency transfer plan, which is included as Exhibit 16-3 to this plan.

12.2.3 EMERGENCY TRANSFER PROCEDURES

If the transfer is necessary because of maintenance conditions, and an appropriate unit is not immediately available, FH 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, FH 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, stalking, or human trafficking, FH will follow procedures outlined in Exhibit 16-4.

12.3 PART II: FH REQUIRED TRANSFERS

12.3.1 OVERVIEW

FH may require that a resident transfer to another unit under certain circumstances. For example, FH may require a resident to transfer to make an accessible unit available to a disabled family. FH may also transfer a resident in order to maintain occupancy standards based on family composition. Finally, FH may transfer residents in order to demolish, dispose, revitalize or renovate the unit; including units converted through Rental Assistance Demonstration or to complete capital fund projects.

As authorized under the Rental Assistance Demonstration (RAD), Fresno Housing (FH) converted public housing units to Project Based Rental Assistance (PBRA), Project Based Voucher (PBV), or other affordable housing such as, Low Income Housing Tax Credit (LIHTC). RAD requires a Temporary Tenant Relocation plan which was prepared by FH in accordance with HUD issued RAD notices. The plan provides for families to be temporarily relocated during the rehabilitation to nearby temporary housing (at the cost of Fresno Housing) in order to limit inconvenience to the tenant. Families that are affected by the conversion will continue to be treated as public housing residents during temporary relocation and will be transferred to other available public housing units.

A transfer that is required by FH is an adverse action, and is subject to the notice requirements for adverse actions [24 CFR 966.4(e)(8)(i)].

12.3.2 TYPES OF FH REQUIRED TRANSFERS

The types of transfers that may be required by FH, include, but are not limited to:

- Transfers to make an accessible unit available for a disabled family.
- Transfers to comply with occupancy standards.
- Transfers for demolition, disposition, revitalization, or rehabilitation.
- Emergency transfers as discussed in Part I of this chapter.
- Transfers required by FH that are mandatory for the resident.

Transfers to Make an Accessible Unit Available

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

When a non-accessible unit becomes available, FH will transfer a family living in an accessible unit that does not require the accessible features, to an available unit that is not accessible. FH may wait until a disabled resident requires the accessible unit before transferring the family that does not require the accessible features out of the accessible unit.

Occupancy Standards Transfers

FH may require a resident to move when a reexamination indicates that there has been a change in family composition, and the family is either overcrowded or over- housed according to FH policy [24 CFR 960.257(a)(4)]. On some occasions, FH may initially place a resident in an inappropriately sized unit at lease-up, where the family is over-housed, to prevent vacancies. The public housing lease will include the resident's agreement to transfer to an appropriately sized unit based on family composition [24 CFR 966.4(c)(3)].

FH will transfer a family when the family size has changed and the family is now too large (overcrowded) or too small (over-housed) for the unit occupied.

For purposes of the transfer policy, overcrowded and over-housed are defined as follows:

Overcrowded: the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides, according to the chart in Chapter 5.

Over-housed: the family no longer qualifies for the bedroom size in which they are living based on the FH's occupancy standards as described in Chapter 5.

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

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

A family that is required to move because of family size will be advised by FH 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 Chapter 5 will only be required to transfer if it is necessary to comply with the approved exception.

Demolition, Disposition, Revitalizations, or Rehabilitation, Including Rental Assistance Demonstration (RAD) ConversionsTransfers.

These transfers permit FH to demolish, sell or do major capital or rehabilitation work at a building site [PH Occ GB, page 148].

FH 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. FH's relocation plan may or may not require transferring affected families to other available public housing units.

If the relocation plan calls for transferring public housing families to other public housing units, affected families will be placed on the transfer list.

In cases of revitalization or rehabilitation, the family may be offered a temporary relocation if allowed under Relocation Act provisions, and may be allowed to return to their unit, depending on contractual and legal obligations, once revitalization or rehabilitation is complete.

12.3.3 ADVERSE ACTION [24 CFR 966.4(E)(8)(I)]

A FH 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, FH may not take action on the transfer until the conclusion of the grievance process.

12.4 PART III: TRANSFERS REQUESTED BY RESIDENTS

12.4.1 OVERVIEW

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

Some transfers that are requested by residents will be treated as higher priorities than others due to the more urgent need for the transfer.

12.4.2 TYPES OF RESIDENT REQUESTED TRANSFERS

The types of requests for transfer that FH will consider are limited to requests for transfers:

- To alleviate a serious or life threatening medical condition.
- Transfers due to a threat of physical harm or criminal activity [3] including Emergency Transfers under VAWA.
- Reasonable accommodation.
- Transfers to a location closer to employment.

No other transfer requests will be considered by the FH.

FH will consider the following as high priority transfer requests:

When a transfer is needed to alleviate verified medical problems of a serious or life-threatening nature

- When there has been a verified threat of physical harm or criminal activity. Such circumstances may, at FH's discretion, include an assessment by law enforcement indicating that a family member is the actual or potential victim of a criminal attack, retaliation for testimony, or a hate crime.
- When a family requests a transfer as a reasonable accommodation. Examples of a reasonable accommodation transfer include, but are not limited to, a transfer to a first floor unit for a person with mobility impairment, or a transfer to a unit with accessible features.

FH will consider the following as regular priority transfer requests:

- When a family requests a larger bedroom size unit even though the family does not meet the FH's definition of overcrowded, as long as the family meets the FH's occupancy standards for the requested size unit

- When the head of household or spouse is employed 25 miles or more from the public housing unit, has no reliable transportation and public transportation is not adequate

Resident requested transfers are considered optional.

12.4.3 ELIGIBILITY FOR TRANSFER

Transferring residents do not have to meet the admission eligibility requirements pertaining to income or preference. FH has established the following standards for considering a transfer request [PH Occ GB, p. 150].

Except where reasonable accommodation is being requested, FH will only consider transfer requests from residents that meet the following requirements:

- Have not engaged in criminal activity that threatens the health and safety of residents and staff.
- Owe no back rent or other charges, or have a pattern of late payments.
- Have no housekeeping lease violations or history of damaging property.
- Has resided in their unit for a minimum of 12 months before being eligible for a transfer to another housing development.
- The resident may not request more than one transfer every four years. (Exceptions to this standard will be made for medical or other emergency situations.)

A resident with housekeeping standards violations will not be transferred until the resident passes a follow-up housekeeping inspection.

Exceptions to the good record requirement may be made at the discretion of FH. Exceptions may also be made when FH determines that a transfer is necessary to protect the health or safety of a resident who is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking and who provides documentation of abuse.

If a family requested to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines, the family will not be eligible to transfer to a larger size unit for a period of two years from the date of admission, unless they have a change in family size or composition, or it is needed as a reasonable accommodation.

12.4.4 HANDLING OF REQUESTS

Residents requesting a transfer to another unit or development will be required to submit a written request for transfer.

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

FH will respond by approving the transfer and putting the family on the transfer list, by denying the transfer, or by requiring more information or documentation from the family, such as documentation of domestic violence, dating violence, sexual assault, stalking, or human trafficking in accordance with FH VAWA Policy, Exhibit 16.5 in this plan.

If the family does not meet the “good record” requirements under Section 7.9, the designated staff will address the problem and, until resolved, the request for transfer will be denied.

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

12.5 PART IV: TRANSFER PROCESSING

12.5.1 OVERVIEW

Generally, transfers should be placed on a transfer list and handled in the appropriate order. The transfer process must be clearly auditable to ensure that residents do not experience disparate treatment.

12.5.2 TRANSFER LIST

FH's Property Management Division (PMD) will maintain a 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 will not be finally resolved by a temporary accommodation, and the resident requires a permanent transfer, that transfer will be placed at the top of the transfer list.

Transfers will be processed in the following order:

- Emergency transfers (hazardous maintenance conditions)
- High-priority transfers (verified medical condition, threat of harm or criminal activity, and reasonable accommodation)
- Transfers to make accessible units available
- Demolition, rehabilitation, disposition, revitalization, renovation, etc.
- Occupancy standards
- Other FH-required transfers
- Other resident-requested transfers

Within each category, transfers will be processed in order of the date a family was placed on the transfer list, starting with the earliest date.

With the approval of the Agency designee, FH 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 FH to meet the demolition or renovation schedule.

Transfers will take precedence over interest list admissions.

12.5.3 TRANSFER OFFER POLICY

Residents will receive one offer of a transfer. A resident must accept or reject the unit offered within three business days of the date the offer is made.

- When the transfer is required by FH, refusal of that offer without good cause will result in lease termination.
- When the transfer has been requested by the resident, refusal of that offer without good cause will result in the removal of the household from the transfer list and the family must wait six months to reapply for another transfer.
- Residents requesting to transfer to another unit or development are required to submit a Resident Request to Transfer Form to the site management office. Within ten business days, the designated property staff will review the request and determine if the resident is in good standing with FH, has met the **12**-month residency requirement, and has not transferred from another site within the last four years.
- Upon determination by the designated property staff, that the resident has met the transfer eligibility criteria, the Resident Request to Transfer Form (RRTF) will be submitted to the designated staff.
- Should the request be approved, the RRTF will be forwarded to the designated staff to determine if a vacant unit, of the appropriate size, is available. Upon acceptance of the unit by the resident, the receiving development staff will facilitate the lease-in appointment. Should a unit not be available, FH will notify the resident that their name has been placed on the transfer list for the location and/or bedroom size desired. If the request is denied, the family will be sent a letter stating the reason for denial, and offering the family an opportunity for an informal hearing.
- Requests to transfer to another unit within the same development, generally for medical reasons or to accommodate a smaller/larger family composition, will be reviewed and approved by the designated management staff. In cases where the designated management staff denies the transfer request, the resident will be notified in writing of the decision and offered an opportunity for an informal hearing.
- New applicants shall have priority over transfers, except for Emergency and/or FH required transfers.

12.5.4 GOOD CAUSE FOR UNIT REFUSAL

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

Inaccessibility to source of employment, education, or job training, children's day care, or an educational program for children with disabilities, so that accepting the unit offer would require the 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 FH's satisfaction that accepting the offer will place a family member's life, health or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders, other court orders, or risk assessments related to witness protection from a law enforcement agency. 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 the lease) or live-in aide necessary to the care of the principal household member.

An elderly or disabled family makes the decision not to occupy or accept occupancy in designated housing; (24 CFR 945.303(d));

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. FH has the right to investigate and ask for documents regarding refusals.

FH will require documentation of good cause for unit refusals.

12.5.5 SECURITY DEPOSITS

When a family transfers from one unit to another, FH 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.

In the case of FH initiated transfers, the inability to pay the security deposit should not delay the transfer and will be handled on a case-by-case basis.

12.5.6 COST OF TRANSFER

Residents are responsible for all moving costs related to their transfer. FH will only incur the reasonable cost of transfers initiated by FH due to demolition, disposition, revitalization, rehabilitation, and/or a reasonable accommodation for a resident with a disability. Upon approval of the transfer, residents must complete their move within three business days.

The resident will be charged rent on both units until the keys from the old unit are turned into FH.

12.5.7 REEXAMINATION

The date of the annual reexamination will not change upon the completion of the transfer.

12.5.8 DECONCENTRATION

If subject to deconcentration requirements, FH 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 FH'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.

[1] 24 CFR 100.5

[2] If a unit becomes uninhabitable due to conditions caused by the resident, any member of the resident household, or the resident's guests, will be addressed through the lease violation process and the resident shall not have the rights set forth above, or if the cause for the conditions is determined after the transfer, the FH may still terminate tenancy.

[3] Such transfers may be initiated after the FH receives input from local law enforcement. In considering whether to initiate such transfers, the FH will take account the circumstances creating

the risk of violence and make a determination in the best interest of the resident and the FH.

[4] Voluntary if the family is between the minimum and maximum occupancy standard but the family requests a transfer, e.g. to permit older children of opposite sexes to have separate bedrooms.

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Chapter 13 – Lease Terminations

[24 CFR 966.4]

13.1 INTRODUCTION

FH may terminate tenancy for a family based on the residents' action(s) or failure to act in accordance with HUD regulations [24 CFR 966.4 (l)(2)], and the terms of the Resident Lease Agreement. This chapter describes FH's policies for notification of lease termination and provisions of the Resident Lease Agreement.

This chapter presents the policies that govern both the family's and FH's termination of the lease. It is presented in four parts:

Part I: Termination by Resident. This part discusses the family's voluntary termination of the lease and the requirements the FH places upon families who wish to terminate their lease.

Part II: Termination by FH - Mandatory. This part describes the policies that govern how, and under what circumstances, a mandatory lease termination by the FH occurs. This part also includes nonrenewal of the lease for noncompliance with community service requirements and families that have been over the income limit for 24 consecutive months.

Part III: Termination by FH – Other Authorized Reasons. This part describes the FH's options for lease termination that are not mandated by HUD regulation but for which HUD authorizes FHs to terminate. For some of these options HUD requires the FH to establish policies and lease provisions for termination, but termination is not mandatory. For other options the FH has full discretion whether to consider the options as just cause to terminate as long as the FH policies are reasonable, nondiscriminatory, and do not violate state or local landlord- resident law. This part also discusses the alternatives that the FH may consider in lieu of termination, and the criteria the FH will use when deciding what actions to take.

Part IV: Notification Requirements. This part presents the federal requirements for disclosure of criminal records to the family prior to termination, the HUD requirements and PHA policies regarding the timing and content of written notices for lease termination and eviction, and notification of the post office when eviction is due to criminal activity. This part also discusses record keeping related to lease termination.

13.2 PART I: TERMINATION BY RESIDENT

13.2.1 TERMINATION BY RESIDENT [24 CFR 966.4(K)(L)(II) AND 24 CFR 966.4 (L)(1)]

The resident may terminate their Resident Lease Agreement by providing FH with a written thirty-day advance notice as defined in the Resident Lease Agreement. If Resident vacates the unit prior to the end of the 30-day notice, resident will continue to be responsible for paying rent through the end of the 30-day notice.

13.3 PART II: TERMINATION BY THE FH – MANDATORY

13.3.1 OVERVIEW

HUD requires the FH to terminate the lease in certain circumstances. In other circumstances HUD requires the FH to establish provisions for lease termination, but it is still the FH option to determine, on a case-by-case basis, whether termination is warranted. For those resident actions or failures to act where HUD requires termination, the FH has no such option. In those cases, the family's lease must be terminated. This part describes situations in which HUD requires the FH to terminate the lease.

13.3.2 MANDATORY TERMINATION

- Failure to Provide Consent [24 CFR 960.259(a) and (b)] The FH must terminate the lease if any family member fails to sign and submit any consent form s/he is required to sign for any reexamination.
- Failure To Document Citizenship [24 CFR 5.514(c) and (d) and 24 CFR 960.259(a)] The FH must terminate the lease if
    - A family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status;
    - 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
    - A family member, as determined by the FH, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit.
        - For 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.
- Failure To Disclose and Document Social Security Numbers [24 CFR 5.218(c), 24 CFR 960.259(a)(3), Notice PIH 2018-24] The FH must terminate the tenancy of Public Housing participants (the entire household) if s/he (including each member of the household required to disclose his/her SSN) does not disclose his/her SSN and provide the required documentation.
- However, if the family is otherwise eligible for continued program assistance, and the FH 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 FH may defer the family's termination and provide the opportunity to comply with the requirement within a period not to exceed 90 calendar days from the date the FH determined the family to be noncompliant.
- The FH 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.

- The FH will terminate assistance if the family submits falsified documentation. (See Chapter 7 for a complete discussion of documentation and certification requirements).
- Failure To Accept The FH's Offer Of A Lease Revision [24 CFR 966.4(l)(2)(iii)(E)] The FH must terminate the lease if the family fails to accept the FH's offer of a lease revision to an existing lease.
- Methamphetamine Conviction [24 CFR 966.4(l)(5)(i)(A)] The FH must immediately terminate the lease if the FH determines that any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing. "Premises" is defined as the building or complex in which the dwelling unit is located, including common areas and grounds.
- Lifetime Registered Sex Offenders [Notice PIH 2012-28] Should FA 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, FH must immediately terminate assistance for the household member.
- In this situation, FH 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, FH must terminate assistance for the household.
- Noncompliance With Community Service Requirements [24 CFR 966.4(l)(2)(iii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)(2)(ii) and (c)] The FH is prohibited from renewing the lease at the end of the 12-month lease term when the family fails to comply with the community service requirements as described in Chapter 11.
- Death of a Sole Family Member [Notice PIH 2012-10] The FH must immediately terminate program assistance for deceased single member households.

13.4 PART III: TERMINATION BY FH – OTHER AUTHORIZED REASONS

13.4.1 OVERVIEW

HUD requires the FH to establish provisions in the lease for termination pertaining to certain criminal activity, alcohol abuse, and certain household obligations stated in the regulations. The FH has the discretion to consider circumstances surrounding the violation or, in applicable situations, whether the offending household member has entered or completed rehabilitation, and the FH may, as an alternative to termination, require the exclusion of the culpable household member.

In addition, HUD authorizes the FHs to terminate the lease for other grounds, but for only those grounds that constitute serious or repeated violations of material terms of the lease or that are for other good cause. In the development of the terms of the lease, the FH will consider the limitations imposed by state and local landlord-resident law, as well as HUD regulations and federal statutes.

FH also has the option to terminate the tenancies of over-income families.

13.4.2 MANDATORY LEASE PROVISIONS [24 CFR 966.4(L)(5)]

This section addresses provisions for lease termination that must be included in the lease agreement according to HUD regulations. Although the provisions are required, HUD does not require the FH to terminate for such violations in all cases, therefore the FH policies are needed.

13.4.3 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 16.25.

Covered person means a resident, any member of the resident's household, a visitor guest, or any other person under the resident's control.

Dating violence is defined in Chapter 3, Section 16.25

Domestic violence is defined in Chapter 3, Section 16.25

Drug means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802].

Drug-related criminal activity means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with the intent to manufacture, sell, distribute, or use the drug.

Guest means a person temporarily staying in the unit with the consent of a 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 including FH-approved live-in aide. The term household also includes foster children and/or foster adults that have been approved to reside in the unit [HUD-50058, Instruction Booklet, p. 65].

Other person under the 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 mean 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 16.25.

Stalking is defined in Chapter 3, Section 16.25

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.

Pattern of abuse is defined as the use and/or possession of a controlled substance or alcohol if there is more than three (3) incidents during the previous 24 month~~s~~.

Incident includes but is not limited to arrest, convictions, no contest pleas, fines and city ordinance violations.

Currently engaged in as any use or possession of illegal drugs during the previous twelve months.

Abusive or violent behavior includes verbal as well as physical abuse or violence. Use of expletives that are generally considered insulting, racial epithets, or other language (written or oral) that is customarily used to insult or intimidate, may be cause for denial of admission.

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

13.4.4 TERMINATION BY FH – OTHER AUTHORIZED REASONS

The lease may be terminated at any time by the FH who shall give written notice for serious or repeated violation of the terms of the lease such as, but not limited to:

Drug Crime onn or offff the Premises [24 CFR 966.4(l)(5)(i)(B)]

FH 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, visitor or guest, and any such activity engaged in on the premises by any other person under the resident's control.

FH defines **drug related criminal activity** as the illegal manufacture, sale, distribution or use of, or possession with the intent to manufacture, sell, distribute or use, a controlled substance.

FH 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.

Illegal Use of a Drug [24 CFR 966.4(l)(5)(i)(B)]

FH will terminate the lease in cases where the FH determines there is reasonable cause to believe that a family member, or a guest of a family member, is illegally using or in possession of a controlled substance or engages in drug-related criminal or violent criminal activity or the FH 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.

FH defines **pattern of illegal drug use/abuse** as more than three (3) incidents of any use of illegal drugs during the previous 24 months (see Chapter 3, Section 3.25).

FH 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.

Alcohol Abuse [24 CFR 966.4(l)(5)(vi)(A)]

The same will apply if it is determined that a family member, visitor or a guest of a family member, abuses alcohol in a way that interferes with the health, safety or right to peaceful enjoyment of the premises by other residents.

A **pattern of alcohol abus**e means more than three (3) incidents of any such abuse of alcohol during the previous 24 months. (see Chapter 3, Section 3.25).

FH 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.

Threat to Other Residents [24 CFR 966.4(l)(5)(ii)(A)]

The FH 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 or by persons residing in the immediate vicinity of the premises.

Immediate vicinity means within a three-block radius of the premises.

FH defines **abusive or violent behavior** as verbal or physical abuse or violence. Use of expletives that are generally considered insulting, racial epithets, or other language (written or oral) that is customarily used to insult or intimidate, may be cause for termination of assistance.

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

Actual physical abuse or violence will always be cause for termination of assistance.

Furnishing False or Misleading Information Concerning Illegal Drug Use or Alcohol Abuse or Rehabilitation [24 CFR 966.4(l)(5)(vi)(B)]

FH will terminate the lease if the FH 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.

FH 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.

A conviction for drug-related or violent criminal activity will be given more weight than an arrest for such activity.

An arrest record, however, can trigger an inquiry into whether there is sufficient evidence for the FH to determine that a person engaged in disqualifying criminal activity, but is not itself evidence on which to base a determination. FH will utilize other evidence, such as police reports detailing the circumstances of the arrest, witness statements, and other relevant documentation to assist them in making a determination that disqualifying conduct occurred. Reliable evidence of a conviction for criminal conduct that would disqualify an individual for tenancy may also be the basis for determining that the disqualifying conduct is fact occurred [PIH 2015-19]

Committing of any of the above acts is a material breach of the lease and may result in termination of tenancy on three days' notice.

13.4.5 OTHER SERIOUS OR REPEATED VIOLATIONS OF MATERIAL TERMS OF THE LEASE – MANDATORY LEASE PROVISIONS [24 CFR 966.4(L)(2)(I) AND 24 CFR 966.4(F)]

FH will terminate the lease for the following violations of resident obligations under the lease:

- Nonpayment of rent or other charges due under the Lease, or chronic late payment of rent (~~4~~ times in 12 months is considered chronic);
- Failure to provide timely and accurate statements of income, assets, expenses and family composition at Admission, Interim, Special or Annual Rent Reexamination's;
- Assignment or subleasing of the premises or providing accommodation for boarders or lodgers;
- Use of the premises for purposes other than solely as a dwelling unit for the Resident and Resident's household as identified in this Lease, except as approved by the FH for a home based occupation;
- Failure to abide by reasonable rules made by the FH for the benefit and well-being of the housing development and the Residents;
- Failure to abide by applicable building and housing codes materially affecting health or safety;
- Failure to dispose of garbage waste in designated trash container:
- Failure to use electrical, plumbing, sanitary, heating, ventilating, air conditioning and other equipment, in a safe manner;
- Acts of destruction, defacement or removal of any part of the premises, or failure to cause guests to refrain from such acts;
- Failure to pay reasonable charges (other than for normal wear and tear) for the repair of damages to the premises, development buildings, facilities, equipment, or common areas, caused by the resident, member (s) of the household and/or guest (s);
- To act, and cause household member (s) and/or guest (s) to act, in a manner which will not disturb other residents' peaceful enjoyment
- Non-compliance with any assistance programs, governmental agency and/or law enforcement.

13.4.6 OTHER AUTHORIZED REASONS FOR TERMINATION [24 CFR 966.4(L)(2) AND (5)(II)(B)]

HUD authorizes the FH to terminate the lease for reasons other than those described in the previous sections. These reasons are referred to as "other good cause."

Other Good Cause [24 CFR 966.4(l)(2)(ii)(B) and (C)]

HUD regulations state that FH may terminate tenancy for other good cause. The Violence against Women Reauthorization Act explicitly prohibits FH from considering incidents of actual or threatened domestic violence, dating violence, sexual assault , stalking, or human trafficking as "other good cause" for terminating the tenancy or occupancy rights of the victim of such violence. FH will terminate the lease for the following reasons:

- Fugitive Felon or Parole Violator. If a resident or guest is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or violating a condition of probation or parole imposed under federal or state law.

- Persons subject to sex offender registration requirement. If any member of the household has, during their current public housing tenancy, become subject to a registration requirement under a state sex offender registration program.

For families, failure to remove any household member(s) that are subject to a sex offender lifetime registration under a State sex offender registration program will result in eviction of the family.

- Discovery after admission of facts that made the resident ineligible.
- Discovery of material false statements or fraud by the resident in connection with an application for assistance or with reexamination of income.
- Failure to furnish such information and certifications regarding family composition and income as may be necessary for the FH to make determinations with respect to rent, eligibility, and the appropriateness of dwelling size.
- Failure to transfer to an appropriate size dwelling unit based on family composition, upon appropriate notice by the FH that such a dwelling unit is available.
- Failure to permit access to the unit by the FH after proper advance notification for the purpose of performing routine inspections and maintenance, for making improvements or repairs, or to show the dwelling unit for re-leasing, or without advance notice if there is reasonable cause to believe that an emergency exists.
- Failure to promptly inform the FH of the birth, adoption or court-awarded custody of a child. In such a case, promptly means within 10 business days of the event.
- Failure to abide by the provisions of the FH pet policy.
- If the family has breached the terms of a repayment agreement entered into with the FH.
- If a family member has violated federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.
- If a covered person has engaged in or threatened violent or abusive behavior toward the FH personnel, vendor and/or contractors.

Abusive or violent behavior towards FH personnel, vendor and/or contractors 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.

Family Absence from Unit [24 CFR 982.551(i)]

The family must supply any information or certification requested by the FH to verify that the family is living in the unit, or relating to family absence from the unit, including any FH-requested information or certification on the purposes of family absences. The family must cooperate with the FH for this purpose.

The family must promptly notify the FH when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 60 calendar days in a 12-month period. In such a case promptly means within 10 business days of the start of the extended absence.

Abandonment. If the entire family is absent from the unit more than 14 consecutive days, whether or not rent has been paid, the FH will consider the family to have abandoned the unit. The FH will follow state and local landlord-tenant law pertaining to abandonment before taking possession of the unit. If necessary, the FH will secure the unit immediately to prevent vandalism and other criminal activity.

Over-Income Families [24 CFR 960.261; FR Notice 07/26/2018; 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 (2) consecutive years. PHA must either terminate the family's tenancy within six months of final notification of the end of the 24-month grace period, or charge the family a monthly rent that is higher of the applicable market rent (FMR) or the amount of monthly subsidy for the unit, including amounts from the capital funds, as determined by regulations.

Notice PIH 2019-11 also requires that PHAs publish over-income limits in their ACOP and update them no later than 60 days after HUD publishes new income limits each year. The over-income limit is calculated by multiplying the very low-income (VLI) by 2.4, as adjusted for family size.

PHAs also have discretion, under 24 CFR 960.261, to adopt policies allowing termination of tenancy for families whose income exceeds the limit for program eligibility. Such policies would exempt families participating in the Family Self- Sufficiency (FSS) program or currently receiving the earned income disallowance.

FH Policy

At annual or interim reexamination, if a family's income exceeds the applicable over- income limit, the FH will document the family file and begin tracking the family's over- income status. The family will receive an initial notice of over-income. For families who remain over-income for 24 consecutive months, FH will terminate tenancy as described in 24 CFR 960.261. The resident will have no more than 6 months to vacate the unit.

If 12-months after the applicable annual or interim reexamination the family's income continues to exceed the applicable over-income limit, FH will notify the family in writing that their income has exceeded the over-income limit for 12 consecutive months , and that if the family continues to be over-income for 24 consecutive months, the family will be terminated.

If 24-months after the applicable annual or interim reexamination the family's income continues to exceed the applicable over-income limit, FH will notify the family in writing that their income has exceeded the over-income limit for 24 consecutive months, and they are no longer eligible for assistance under the Public Housing Program.

If, at any time during the 24-month period following the initial notification of over-income determination, an over-income family experiences a decrease in income, the family may request an interim redetermination of rent in accordance with FH policy in Chapter 9. If, as a result, the previously over-income family is now below the over-income limit, the family is no longer subject to over-income provisions as of the effective date of the reexamination. The FH 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.

During the period before termination, the over-income family will continue to be a public housing program participant until their tenancy is terminated. The FH will continue to charge the family rent in accordance with public housing regulations, will offer the family the choice between income-based and flat rent as required by the regulations, and will prorate rent for mixed families.

FH will use HUD's income limits published annually to determine the applicable over- income limits at 120 percent of the Very Low-Income (VLI) by family size. 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. [PIH 2019-11]

FH will rely on the following over-income limits. These numbers will be updated within 60 days of HUD publishing new income limits each year and will be effective for all annual and interim reexaminations once these policies have been adopted.

Family Size	1	2	3	4	5	6	7	8
Over-Income Limit	81.600	93,240	104,880	116,520	125,880	135,240	144,600	153,840

For families larger than eight persons, the over-income limit will be calculated by multiplying the applicable very low-income limit by 2.4.

13.4.7 ALTERNATIVES TO TERMINATION OF TENANCY

Exclusion of Culpable Household Member [24 CFR 966.4(l)(5)(vii)(C)]

In evaluating whether to terminate the lease, the FH will give fair consideration to the seriousness of the activity, and/or likelihood of favorable conduct in the future (including evidence of rehabilitation).

FH will also consider whether:

- The person demonstrates successful completion of a credible rehabilitation program approved by the FH, and is willing to continue in a supportive program approved by the FH; or
- The individual involved in drug-related criminal activity is no longer in the household due to incarceration.

If FH determines not to terminate the lease, and permit continued occupancy, the FH may require the family accept imposed conditions such as that the involved family member(s) does not reside in or visit the unit. The FH will consider evidence that the person is no longer in the household such as a divorce decree/incarceration/ death/ copy of a new lease for the person including the owner's telephone number and address/ or other substantiating evidence.

If a family member is terminated from assistance due to an arrest for a criminal charge, the family may be re-instated upon documentation that the criminal charge was dismissed or the person was found "not guilty" by a court of law.

Repayment of Family Debts

If a family owes amounts to the FH, as a condition of continued occupancy, the FH will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the FH of the amount owed

13.4.8 CRITERIA FOR DECIDING TO TERMINATE TENANCY

FH will consider all of the circumstances relevant to a particular case before making a decision, to terminate a tenancy, except as explained in Part II of this chapter,

Evidence [24 CFR 982.553(c)]

For criminal activity, HUD permits the FH to terminate the lease if a **preponderance of the evidence** indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted, and without satisfying the standard of proof used for a criminal conviction.

FH will use the concept of the preponderance of the evidence as the standard for making all termination decisions.

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

Consideration of Circumstances [24 CFR 966.4(l)(5)(vii)(B)]

Although it is required that certain lease provisions exist for criminal activity and alcohol abuse, HUD provides that the FH may consider all circumstances relevant to a particular case in order to determine whether or not to terminate the lease.

Such relevant circumstances can also be considered when terminating the lease for any other reason.

FH may consider the following factors 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.

- 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 13.10) a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.
- The effects that the eviction will have on other family members who were not involved in the action or failure to act.
- The effect of the FH's decision on the integrity of the public housing program.
- 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, the family's recent history, and the likelihood of favorable conduct in the future.
- In the case of program abuse, the dollar amount of the underpaid rent and whether or not a false certification was signed by the family.

Consideration of Rehabilitation [24 CFR 966.4(l)(5)(vii)(D)]

HUD authorizes the FHs to take into consideration whether a household member who had used illegal drugs or abused alcohol and is no longer engaging in such use or abuse is participating in or has successfully completed a supervised drug or alcohol rehabilitation program.

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 FH will consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully.

For this purpose, FH will require the resident 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.

Reasonable Accommodation [24 CFR 966.7]

If the family includes a person with disabilities, FH's decision to terminate the family's lease is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of lease, FH will determine whether the behavior is related to the disability.

If so, upon the family's request, the FH will determine whether alternative measures are appropriate as a reasonable accommodation. The FH will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed lease termination. See Chapter 2 for a discussion of reasonable accommodation.

Nondiscrimination Limitation [24 CFR 966.4(l)(5)(vii)(F)]

FH's eviction actions must be consistent with fair housing and equal opportunity provisions of 24 CFR 5.105.

13.4.9 PROHIBITION AGAINST TERMINATING TENANCY OF VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT AND STALKING [24 CFR 5.2005(B)]

This section addresses the protections against termination of tenancy that the Violence against Women Act (VAWA) provides for public housing residents who are victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

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 solely on the basis of criminal activity directly relating to domestic violence, dating violence, sexual assault, , stalking, or human trafficking 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, , stalking, or human trafficking [FR Notice 8/6/13].

VAWA further provides that incidents of actual or threatened domestic violence, dating violence, sexual assault, stalking, or human trafficking may not be construed either as serious or repeated violations of the lease by the 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]. Additionally, property damage and noise complaints due to abuse cannot be used as the basis for eviction [Form HUD-5380}.

13.4.10 DEFINITIONS

For the definitions of domestic violence, dating violence, stalking, and immediate family member, see section 16.25.

VAWA and Other Laws [24 CFR 5.2009, 24 CFR 5.2005(d)]

VAWA does not supersede any other federal, state, or local law that provides greater protection to victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking. Moreover, VAWA does not limit FH's duty to honor court orders issued to protect a victim or to address the distribution of property when a family breaks up.

Limits on VAWA Protections [24 CFR 5.2005(d), 24 CFR 5.2005(e)]

While VAWA prohibits FH from using domestic violence, dating violence, sexual assault , stalking, or human trafficking as the cause for a termination or eviction action against a public housing resident who is the victim of the abuse, the protections it provides are not absolute. Specifically:

- VAWA does not limit FH's otherwise available authority to terminate assistance to or evict a victim for lease violations not premised on an act of domestic violence, dating violence, sexual assault , stalking, or human trafficking providing that the FH does not subject the victim to a more demanding standard to which it holds other residents.
- VAWA does not limit FH's authority to terminate the tenancy of any public housing resident if the FH 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 determining whether a public housing resident who is a victim of domestic violence, dating violence, sexual assault , stalking, or human trafficking is an actual and imminent threat to other residents or those employed at or providing service to a property, the FH 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, stalking, or human trafficking.
- Whether the threat is a physical danger beyond a speculative threat.
- Whether the threat is likely to happen within a short period of time.
- Whether the threat to other residents or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location.

If the resident wishes to contest the FH'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.

Victim Notification [Notice PIH 2017-08 (HA)]

VAWA requires FH to notify residents of their rights under VAWA and to inform them about the existence of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault , stalking, or human trafficking, and Alternate Documentation. (For general VAWA notification policies, see Chapter 16-Part VII.)

FH will include language discussing the protections provided by VAWA in the termination or eviction notice and request that a resident come to the FH office and pick up the form HUD-5382, if the resident believes the VAWA protections apply.

If FH has reason to suspect that the form HUD-5382 might place a victim of domestic violence at risk, it will attempt to deliver the notice by hand directly to the victim. FH will use the same caution if it decides to deliver VAWA information to a victim at any other time following an incident of domestic violence.

Victim Documentation [Notice PIH 2017-08 (HA)]

When a resident family is facing lease termination because of the actions of a resident, household member, guest, or other person under the resident's control and a resident or immediate family member of the resident's family claims that she or he is the victim of such actions and that the actions are related to domestic violence, dating violence, sexual assault , stalking, or human trafficking, the FH will request in writing that the individual submit documentation affirming that claim. The written request will include explicit instructions on where, when, and to whom the documentation must be submitted. It will also state the consequences for failure to submit the documentation by the deadline.

The documentation will consist of a completed and signed VAWA form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, stalking, or human trafficking, and Alternate Documentation. In lieu of the certification form, the FH will accept either of the following forms of documentation:

A police or court record documenting the actual or threatened abuse;

Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault , stalking, or human trafficking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; or a medical or other knowledgeable 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 individual claiming victim status must submit the requested documentation within 14 business days after receipt of the FH's written request or must request an extension within that timeframe. FH may, at its discretion, extend the deadline for 10 business days.

If the individual provides the requested documentation within 14 business days, or any FH-approved extension, the FH will reconsider its termination decision in light of the documentation.

If the individual does not provide the requested documentation within 14 business days, or any FH-approved extension, the FH will proceed with termination of the family's lease in accordance with applicable local, state, and federal law and the policies in this ACOP.

Terminating or Evicting a Perpetrator of Domestic Violence [24 CFR 5.2005(c)] Although VAWA provides protection from termination for victims of domestic violence, it does not provide such protection for perpetrators. FH will bifurcate a family's lease and terminate the tenancy of a family member if FH 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, FH will consider all credible evidence, including, but not limited to, a signed certification (form HUD-5382) or other documentation of abuse submitted to the FH by the victim in accordance with this section. Upon such consideration, the FH may, on a case-by-case basis, choose not to bifurcate the lease and terminate the tenancy of the culpable family member.

If FH 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 necessary, the FH will also take steps to ensure that the remaining family members have a safe place to live during the termination process. For example, the FH may offer the remaining family members another public housing unit, if available; it may help them relocate to a confidential location; or it may refer them to a victim service provider or other agency with shelter facilities.

If the person removed from the lease was the only tenant eligible to receive assistance, FH must provide any remaining resident a chance to establish eligibility for the unit. If the remaining resident cannot do so, the FH must provide the tenant reasonable time to find new housing or to establish eligibility for another housing program covered by VAWA

FH Confidentiality Requirements [24 CFR 5.2007(c)(1)(v)]

All information provided to the FH regarding domestic violence, dating violence, sexual assault , stalking, or human trafficking, including the fact that an individual is a victim of such violence , stalking, or human trafficking, must be retained in confidence and may neither be entered into any shared data base nor provided to any related entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the FH will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

13.5 PART IV: NOTIFICATION REQUIREMENTS, EVICTION PROCEDURES AND RECORD KEEPING

13.5.1 OVERVIEW

HUD regulations specify the requirements for the notice that must be provided prior to lease termination. This part discusses those requirements and the specific requirements that precede and follow termination for certain criminal activities which are addressed in the regulations. This part also discusses specific requirements pertaining to the actual eviction of families and record keeping.

13.5.2 CONDUCTING CRIMINAL RECORDS CHECKS [24 CFR 5.903(E)(II) AND 24 CFR 960.259]

The FH will conduct criminal records checks at time of admission and part of the annual reexamination process for continued occupancy or when it has come to the attention of the FH, either from local law enforcement or by other means that an individual has engaged in the destruction of property, engaged in violent activity against another person, or has interfered with the right to peaceful enjoyment of the premises of other residents. Such checks will also include sex offender registration information. In order to obtain such information, all adult household members must sign consent forms for release of criminal conviction and sex offender registration records on an annual basis.

The FH will not pass along to the resident the costs of a criminal records check.

13.5.3 DISCLOSURE OF CRIMINAL RECORDS TO FAMILY [24 CFR 5.903(F), 24 CFR 5.905(D) AND 24 CFR 966.4(L)(5)(IV)]

In all cases where criminal record or sex offender registration information would result in lease enforcement or eviction, the designated management staff 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 10 business days from the date of the FH notice, to dispute the accuracy and relevance of the information. If the family does not contact the designated management staff to dispute the information within that 10 business day period, the FH 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.

13.5.4 LEASE TERMINATION NOTICE [24 CFR 966.4(L)(3)] FORM, DELIVERY, AND CONTENT OF THE NOTICE

FH's written notice of lease termination will state the reason for the proposed termination, the date of termination, and the rights and protections afforded the resident by the regulations and this policy and their right to examine FH documents directly relevant to the termination or eviction. If the FH does not make the documents available for examination upon request by the resident, the FH may not proceed with the eviction [24 CFR 996.4(m)].

When the FH 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 FH'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 FH is not required to offer the resident an opportunity for a grievance hearing because 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 FH 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 FH, or for a drug-related criminal activity on or off the premises.

The FH will attempt to deliver notices of lease termination directly to the resident or an adult member of the household or posted on the unit; and in all cases sent by first class mail addressed to the resident at the unit on the same date. (For terminations related to domestic violence, see also the policy under "Victim Notification" in section 13.10.)

All notices of lease termination will include a statement of the protection against termination provided by the Violence against Women Reauthorization Act (VAWA) for victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking. The FH will also include a copy of the form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault , Stalking, or human trafficking maybe obtain at the site office. Any family member who claims that the cause for termination involves (a) criminal acts of physical violence against family members or others or (b) incidents of domestic violence, dating violence, sexual assault , stalking, or human trafficking of which a family member is the victim will be given the opportunity to provide documentation in accordance with the policies in section 13.10.

Timing of the Notice [24 CFR 966.4(l) (3) (i)]

If the FH terminates the lease, written notice will be given as follows:

- Fourteen (14) calendar days in the case of failure to pay rent;
- Three (3) calendar days:
- If any member of the household has engaged in any drug-related criminal activity. or violent criminal activity;
- Other criminal activity which may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity;
- If the health or safety of other residents, FH employees, property management staff, or persons performing a contract administration function or responsibility on behalf of the FH (including a FH contractor, subcontractor or agent) or persons residing in the immediate vicinity of the premises is threatened; or
    - If any member of the household has engaged in a Violent Criminal activity.
- If any member of the household has been convicted of a felony;
- Thirty (30) calendar days in all other cases:

Period of time prohibited from admission or continued occupancy for 2a, 2b and 2c above would be up to three years from the date of the offense.

Period of time prohibited from admission for item "d" above would be up to three years from the date of offense; however, depending upon the seriousness of the crime committed the prohibition would be up to seven years from the date of the offense.

Period of time prohibited for admission for item "e" above would be five years from the date of offense; however, depending upon the seriousness of the felony committed the prohibit would be up to seven years from the date of the offense.

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) (iii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)]

When the FH 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 Chapter 11.

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 Chapter 11, and will also serve as the notice of termination of tenancy.

Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]

In cases where termination of tenancy is based on citizenship status, HUD requires the notice of termination to contain additional information. In addition to advising the family of the reasons their assistance is being terminated, the notice must also advise the family of any of the following that apply: the family's eligibility for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, the family's right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal, and the family's right to request an informal hearing with the FH either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Please see Chapter 14 for the FH's informal hearing procedures.

13.5.5 EVICTION [24 CFR 966.4(L) (4) AND 966.4(M)]

When a family does not vacate the unit after receipt of a termination notice, by the deadline given in the notice, the FH will follow state and local landlord-tenant law in filing an eviction action with the local court that has jurisdiction in such cases.

If the eviction action is finalized in court and the family remains in occupancy beyond the deadline to vacate given by the court, the FH will seek the assistance of the court to remove the family from the premises as per state and local law.

The FH may not proceed with an eviction action if the FH has not made available the documents to be used in the case against the family, and has not afforded the family the opportunity to examine and copy such documents in accordance with the provisions of 24 CFR 966.4(l)(3) and (m).

13.5.6 NOTIFICATION TO POST OFFICE [24CFR 966.4(L)(5)(III)(B)]

Following the eviction for criminal activity, including drug-related criminal activity, the FH shall notify the local post office serving the dwelling unit that the individual or family is no longer residing in the unit.

13.5.7 RECORD KEEPING

A written record of every termination and/or eviction will be maintained by the FH at the development where the family was residing, and will contain the following information:

- Name of resident, number and identification of unit occupied
- Date of the notice of lease termination and any other notices required by state or local law; these notices may be on the same form and will run concurrently
- Specific reason(s) for the notices, citing the lease section or provision that was violated, and other facts pertinent to the issuing of the notices described in detail (other than any criminal history reports obtained solely through the authorization provided in 24 CFR 5.903 and 5.905)
- Date and method of notifying the resident
- Summaries of any conferences held with the resident including dates, names of conference participants, and conclusions.

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CHAPTER 14 – GRIEVANCES AND APPEALS

[24 CFR 966.50–966.57]

14.1 INTRODUCTION

This chapter describes the policies to be used when applicants or residents disagree with a FH decision. It is the policy of the FH that all applicants and residents have the benefit of all appeal/grievance rights due to them under the law. The policies are discussed in the following three parts:

Part I: Informal Hearings for Public Housing Applicants. This part outlines the requirements and procedures for informal hearings for public housing applicants.

Part II: Informal Hearings with Regard to Noncitizens. This part discusses informal hearings regarding citizenship status and where they differ from the requirements for general applicant and resident grievances.

Part III: Grievance Procedures for Public Housing Residents. This part outlines the requirements and procedures for handling grievances for public housing residents.

14.2 PART I: INFORMAL HEARINGS FOR PUBLIC HOUSING APPLICANTS

14.2.1 OVERVIEW

When FH makes a decision that has a negative impact on an applicant family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal hearing. HUD regulations do not provide a structure for or requirements regarding informal hearings for applicants (except with regard to citizenship status, to be covered in Part II). This part discusses FH policies necessary to respond to applicant appeals through the informal hearing process.

14.2.2 INFORMAL HEARING PROCESS [24 CFR 960.208(A) AND PH OCC GB, P. 58] NOTICE OF DENIAL [24 CFR 960.208(A)]

Applicants who are determined ineligible because they do not meet FH's admission standards, will be given prompt written notification stating the reason for the determination and the procedure for requesting an informal hearing.

When denying eligibility for admission, the FH must provide the family a notice of VAWA rights (VAWA form HUD-5380) as well as the HUD VAWA self-certification form (VAWA form HUD-5382) in accordance with the Violence against Women Reauthorization Act , and as outlined in 16-VII.C. The notice and self-certification form must accompany the written notification of the denial of eligibility determination.

Prior to notification of denial based on information obtained from criminal or sex offender registration records, the family, in some cases, must be given the opportunity to dispute the information in those records which would be the basis of the denial.

Scheduling an Informal Hearing

Applicants must submit their request for an informal hearing in writing to FH within ten business days from the date of the notification of their ineligibility.

Except for an applicant caused delay(s), if an applicant requests an informal hearing, the FH will schedule the hearing to be held within ten business days from receiving the request. FH will notify the applicant of the time, date, and location.

Conducting an Informal Hearing [PH Occ GB, p. 58]

An impartial hearing officer will conduct informal hearings. The person who is designated as the hearing officer cannot be the person who made the determination of ineligibility or a subordinate of such person.

Informal Hearing Decision [PH Occ GB, p. 58]

The hearing officer will consider documentation or evidence provided by the applicant and data compiled by FH. The hearing officer will make a determination based upon the merits of the evidence presented by both sides. Within ten (10) business days of the date of the hearing, the hearing officer will mail a written decision to the applicant and place a copy of the decision in the applicant's file.

- 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.
- If the decision is upheld, the application will remain denied.

The grievance procedure for public housing residents is not applicable to applicants, and applicants have no rights under the FH's grievance procedures.

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 FH must consider such accommodations. FH 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.

14.3 PART II: INFORMAL HEARINGS WITH REGARD TO NONCITIZENS

14.3.1 HEARING AND APPEAL PROVISIONS FOR NON-CITIZENS [24 CFR 5.514]

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. These special hearings are referred to in the regulations, as informal hearings, but the requirements for such hearings are different from the informal hearings used to deny applicants for reasons other than immigration status.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the PHA hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the PHA informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]

As discussed in Chapters 3 and 13, the notice of denial or termination of assistance for noncitizens must advise the family of any of the following that apply:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a resident, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with FH either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

United States Citizenship and Immigration Services Appeal Process [24 CFR 5.514(e)]

If a family member or applicant claims to be an eligible immigrant and the USCIS search does not verify the claim, FH notifies the applicant or resident within ten (10) business days of their right to appeal to the USCIS within thirty (30) days or to request an informal hearing with FH either in lieu of or subsequent to the USCIS appeal.

If the family or applicant appeals to the USCIS, they must provide FH a copy of the written request for appeal and proof of mailing within ten (10) business days of sending the request to USCIS or FH may proceed to deny or terminate.

The time period to request an appeal may be extended by FH for good cause.

The request for a FH hearing must be made within ten (10) business days of receipt of the notice offering the hearing or, if an appeal was made to the USCIS, within thirty (30) business days of receipt of the USCIS decision.

Informal Hearing Procedures for Applicants & Residents [24 CFR 5.514(f)]

After receipt of a request for an informal hearing, the hearing is conducted as described in the “Grievance Procedures” section of this chapter for both applicants and residents.

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, an applicant family or resident may request that the provide a hearing. The request for a hearing must be made either within 30 days of receipt of the FH notice of denial, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for resident families whose tenancy is being terminated based on immigration status is the same as for any grievance under the grievance procedures for resident families found in Part III below.

The informal hearing procedures for applicant families and residents are described below.

Informal Hearing Officer

FH must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision.

Evidence

The family will 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 FH 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 must request discovery of FH documents no later than 12:00 p.m. on the business day prior to the hearing.

The family will 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 will also be provided the opportunity to refute evidence relied upon by FH, and cross-examine all witnesses on whose testimony or information FH 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 arrange for an interpreter to attend the hearing, at the expense of the family, or the FH, as may be agreed upon by the two parties. If the family does not arrange for their own interpreter, FH is still obligated to provide oral translation services in accordance with its LEP Plan.

Recording of the Hearing

FH will not provide a transcript of an audio taped informal hearing.

Hearing Decision

FH 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.

If the hearing officer decides that the individual is not eligible, and there are no other eligible family members FH will deny the applicant family.

If there are eligible members in the family, the FH will offer to prorate assistance or give the family the option to remove the ineligible members.

All other complaints related to eligible citizen/immigrant status:

- If any family member fails to provide documentation or certification as required by the regulation, that member is treated as ineligible. If all family members fail to provide, the family will be denied assistance.
- Participants whose assistance is pro-rated (either based on their statement that some members are ineligible or due to failure to verify eligible immigration status for some members after exercising their appeal and hearing rights described above) are entitled to a hearing based on the right to a hearing regarding determinations of Resident Rent and Total Resident Payment.
- Families denied or terminated for fraud in connection with the non-citizens' rule are entitled to a review or hearing in the same way as terminations for any other type of fraud.

Retention of Documents for Applicants [24 CFR 5.514(h)]

FH must retain for a minimum of 5 years the following documents that may have been submitted to FH by the family, or provided to the FH as part of the USCIS appeal or FH informal hearing process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

Retention of Documents for Residents [24 CFR 5.514(h)]

FH must retain for a minimum of 5 years the following documents that may have been submitted to FH by the family, or provided to the FH as part of the USCIS appeal or FH informal hearing process:

The application for assistance

- The form completed by the family for income reexamination

- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

14.4 PART III: GRIEVANCE PROCEDURES

14.4.1 REQUIREMENTS [24 CFR 966.52]

FH must have a grievance procedure in place through which residents of public housing are provided an opportunity to grieve any FH action or failure to act involving the lease or FH policies which adversely affect their rights, duties, welfare, or status. The FH must not only meet the minimal procedural due process requirements provided under the regulations, but must also meet any additional requirements imposed by local, state or federal law.

FH grievance procedure will be incorporated by reference in the Resident Lease Agreement.

14.4.2 DEFINITIONS

Grievance

Any dispute that a resident may have with respect to an FH action or failure to act in accordance with the individual resident's lease or FH regulations that adversely affects the individual resident's rights, duties, welfare, or status. Grievance does not include disputes between residents not involving the FH; to class grievances such as rent strikes; as a forum for initiating or renegotiating policy changes between groups of residents and the FH Board of Commissioners; nor to an eviction based upon violent criminal activity or drug-related criminal activity.

Complainant

Any resident, whose grievance is presented to FH or at the site/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.

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 PHA including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the resident may have a decision on the merits

Hearing Officer

An impartial person or persons selected by the FH, other than the person who made or approved the decision under review, or a subordinate of that person. The individual or individuals do not need legal training.

Resident

The adult person (or persons) (other than a live-in aide) Who resides in the unit, and who executed the lease with the PHA as lessee of the dwelling unit, or, if no such person now resides in the unit, who resides in the unit, and who is the remaining head of household of the tenant family residing in the dwelling unit.

VAWA

An incident or incidents of actual or threatened domestic violence, dating violence, sexual assault , stalking, or human trafficking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and will not be good cause for terminating the tenancy rights of the victim of such violence.

Criminal activity directly relating to domestic violence, dating violence, stalking, or human trafficking, engaged in by a member of a resident's household or any guest or other person under the resident's control, shall not be cause for termination of the tenancy, if the resident, or immediate member of the resident's family is a victim of that domestic violence, dating violence, stalking, or human trafficking.

14.4.3 APPLICABILITY [24 CFR 966.51]

This Grievance Procedure applies to all individual grievances, except any grievance concerning a termination of tenancy or eviction that involves:

- Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or FH employees, or
- Any violent or drug-related criminal activity on or near such premises; or
- Any drug-related criminal activity that resulted in felony conviction of a household member.

FH Policy

The FH is located in a HUD-declared due process state. Therefore, the FH will not offer grievance hearings for lease terminations involving criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of FH, or for violent or drug-related criminal activity on or off the premises.

14.4.4 INFORMAL HEARING [24 CFR 966.54]

The purpose of the informal hearing (also referred to as an informal conference and/or initial/informal discussion) is to discuss and to resolve the grievance without the necessity of a formal hearing. A formal hearing is only for current residents.

Any informal hearing request must be presented in writing and submitted to the FH office or to the housing management office that sent the notice on which the decision is based. The written informal hearing request must be signed by the resident/applicant. Except for resident/applicant caused delay(s), the request for an informal hearing must be presented within ten (10) business days after receipt of the notice. It may be simply stated, but shall specify:

- The particular grounds upon which it is based,
- The action requested; and
- The name, address, and telephone number of the complainant, and similar information about the complainant's representative, if any.

FH will provide reasonable accommodation for persons with disabilities to participate in the informal hearing. FH must be notified within three days of the scheduled time if special accommodations are required.

A designated FH representative shall hold an informal hearing with the resident/applicant within ten (10) business days of from receipt of the request.

If the complainant fails to appear within 30 minutes of the scheduled time, FH representative may determine that the complainant has waived their right to a hearing.

When the informal hearing is completed and within (10) business days, the FH representative is to complete a summary report. The report will include the date of the informal hearing, names of participants, nature of the disposition of the complaint and supporting reasons, date on which corrective action will be completed, if necessary, as well as procedures and final date by which a hearing may be obtained if the matter has not been resolved at this level. One copy will be filed in the resident/applicant's file.

Dissatisfaction with Informal Hearing

If the resident, also known as the complainant, is dissatisfied with the proposed disposition of the grievance, s/he shall submit a written request for a formal hearing within ten (10) business days of the date of the summary of the informal meeting.

The request must specify the reason for the grievance request and the relief sought.

Failure to Request a Formal Hearing

If the complainant does not request a formal hearing within ten (10) business days of the date of service of the informal hearing decision, s/he waives his/her right to a hearing, and FH's proposed disposition of the grievance will become final. This section in no way constitutes a waiver of the complainant's right to the FH's disposition in an appropriate judicial proceeding.

14.4.5 PROCEDURES TO OBTAIN A FORMAL HEARING

After exhausting the informal hearing procedures outlined above, a complainant shall be entitled to a formal hearing before a hearing officer.

Requests for Hearing and Failure to Request

The resident must submit a written request for a grievance hearing to the FH within ten (10) business days of the resident's receipt of the summary of the informal hearing [24 CFR 966.56(a)]. The request must specify the reasons for the grievance and the action or relief sought.

If the resident does not request a hearing, FH's disposition of the grievance under the informal hearing process will become final. However, failure to request a hearing does not constitute a waiver by the complainant of the right to contest FH's action in disposing of the complaint in an appropriate judicial proceeding [24 CFR 966.56(c)].

Scheduling of Hearings [24 CFR 996.56(a)]

If the complainant complies with the procedures outlined above, a hearing shall be scheduled within a reasonable time by FH.

A written notification of the date, time, place, and procedures governing the hearing shall be delivered to the complainant and the appropriate FH official.

The FH will provide reasonable accommodation for persons with disabilities to participate in the hearing. FH must be notified within three days of the scheduled time if special accommodations are required.

14.4.6 SELECTION OF HEARING OFFICER [24 CFR 966.53(E)]

A grievance hearing shall be conducted by an impartial person appointed by the FH other than the person who made or approved the FH action under review, or a subordinate of such person. The FH must describe their policies for selection of a hearing officer in their lease.

Hearing Officer shall be appointed by FH through an approved list of hearing officers or through an organization approved by the Executive Director of FH.

Each party may challenge the hearing officer for good cause and must file an objection stating reason prior to start of hearing.

The designated FH representative will send written notification to the hearing officer with a copy of the grievance/complaint form, the informal hearing summary report, and a copy of the request for formal hearing.

The designated FH representative advises the hearing officer of name(s) and addresses of all participants.

The hearing officer notifies all parties as to date, time and place of hearing.

14.4.7 PROCEDURES GOVERNING THE HEARING [24 CFR 966.56] RIGHTS OF COMPLAINANT [24 CFR 966.56(B)]

The complainant will be afforded a fair hearing and be provided the basic safeguards of due process to include:

- FH shall also have the opportunity to examine and to copy at the expense of FH all documents; records and statements that the resident plans to submit during the hearing to refute FH's inaction or proposed action. Any documents not so made available to FH may not be relied upon at the hearing.

- The right to be represented by counsel or other person chosen as the resident's representative and to have such person makes statements on the resident's behalf.

Hearings may be attended by the following applicable persons:

- A FH representative(s) and any witnesses for the FH;
- The resident and any witnesses for the resident;
- The resident's counsel or other representative;
- Any other person approved by the FH 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 contradict evidence relied on by FH or the site/property management, and to cross-examine all witnesses upon whose testimony or information FH or the site/property management relies;
- A decision based solely and exclusively upon the facts presented at the hearing;

Failure to Appear [24 CFR 966.56(d)]

The head of household must attend the formal hearing. If the complainant fails to appear within 30 minutes of the scheduled time, the hearing officer may determine that the complainant has waived their right to a hearing.

If the resident fails to appear and was unable to reschedule the hearing in advance, the resident must contact FH 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 which seriously affects the health, safety, or welfare of the family.

14.4.8 GENERAL PROCEDURES [24 CFR 966.56 (D), (E)],

The hearing shall be held before a hearing officer.

At the hearing, the complainant must first make a showing of an entitlement to the relief sought and thereafter FH must sustain the burden of justifying the FH action or failure to act against which the complaint is directed [24 CFR 966.56(d),(e)] .

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 FH. 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.

Either party may request a tape recording of the hearing. The FH shall provide equipment and an operator for the purpose of recording the hearing. The complainant may secure a duplicate at his/her expense.

Accommodations of Persons with Disabilities [24 CFR 966.56(f)]

FH 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.

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Grievance hearings will be conducted in English. For residents who may require language assistance, FH will responsibly use artificial intelligence, a FH staff person who can interpret, and/or machine translation to communicate. FH will also permit families to bring an advocate, family member, friend, or other adult representative to assist in communications.

Decision of the Hearing Officer [24 CFR 966.57]

The hearing officer shall mail to FH and the complainant a written decision, including the reasons for the decision, within 10 business days following the hearing. FH will place one copy in the resident files. The written decision will be sent to the address provided at the hearing.

The decision of the hearing officer shall be binding on the FH which shall take all actions necessary to carry out the decision, unless the Board of Commissioners' intervene in the matter. The Board of Commissioners may overturn a hearing officer's decision in either of the following two situations:

- The grievance does not concern the FH action or failure to act in accordance with or involving the complainant's lease or FH regulations that adversely affect the complainant's rights, duties, welfare or status.

- The decision of the hearing officer is contrary to applicable Federal, State, or local law, HUD regulations or requirements of the Annual Contributions Contract between HUD and FH.

A decision by the hearing officer or Board of Commissioners in favor of FH or which denies the relief requested by the complainant in whole or part shall not constitute a waiver of, nor affect in any manner whatever, the rights of the complainant to a trial or judicial review in any proceedings which may thereafter be brought in the matter.

Any grievance in which the Resident claims a right under VAWA, a hearing officer will not issue a decision and instead will postpone the hearing until such time as a decision on the VAWA request has been made in compliance with all VAWA references made in this ACOP.

14.4.9 DECISION OF THE HEARING OFFICER [24 CFR 966.57]

If a resident has requested a hearing in accordance with these duly adopted Grievance Procedures on a complaint involving a FH notice of termination of tenancy, and the hearing officer upholds the FH action, FH shall not commence an eviction action until the notice of termination of tenancy expires. The notice of termination continues pending the grievance hearing procedures. As the notice of termination continues, rent shall be due and owing during and pending the grievance hearing procedures [24 CFR 966.57(c)].

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CHAPTER 15 – PROGRAM INTEGRITY

15.1 INTRODUCTION

Fraud is defined as the intentional, false representation or concealment of a material fact for the purpose of inducing another to act upon it to his or her injury. Fraud and abuse by an applicant or resident, therefore, may constitute an intentional misrepresentation of income, assets, and allowances, or intentional misrepresentation of family composition or initiating and participating in bribes or other illegal activities. Intentional may mean a claim that a participant or applicant knows or has reason to know is false, fictitious, or fraudulent. Knows or has reason to know may mean a person acts in deliberate ignorance of the truth or acts in reckless disregard of the truth or falsity of the claim or statement.

Part I: Preventing, Detecting, and Investigating Errors and Program Abuse. This part presents FH policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures the FH must and may take when errors or program abuses are found.

15.2 PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

15.2.1 PREVENTING ERRORS AND PROGRAM ABUSE

Management and program staff utilize various methods and practices (listed below) to help prevent program abuse, noncompliance, and willful violations of program rules by applicants and participant families. This policy objective is to establish confidence and trust in the management by emphasizing education as the primary means to obtain compliance by participant families.

HUD created the Enterprise Income Verification (EIV) system to provide Housing Authorities with a powerful tool for preventing errors and program abuse. The FH is required to use the EIV system in its entirety in accordance with HUD administrative guidance [24 CFR 5.233]. The FH is further required to:

Provide applicants and residents with forms:

- "Debts Owed to PHAs and Terminations" [form HUD-52675]: All adult members of an applicant or participant family are required to acknowledge receipt of form HUD- 52675 by signing a copy of the form for retention in the family file.
- "Is Fraud Worth It?" [form HUD-1141-OIG]: which explains the types of actions a family must avoid and the penalties for program abuse.
- "What You Should Know About EIV": a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12.

Program Orientation Sessions: Mandatory orientations sessions will be conducted by FH staff for all prospective participant families either prior to or upon execution of the lease. At the conclusion of all Program Orientation Sessions, all adults, if applicable, will be required to sign forms HUD-52675 and "What You Should Know About EIV" to confirm that all rules and pertinent regulations were explained to him/her regarding fraud and abuse.

Participant Family Counseling: FH staff will routinely provide participant family counseling as a part of the reexamination interview in order to clarify any confusion pertaining to program rules and requirements.

Use of Instructive Sign and Warnings: Instructive signs will be conspicuously posted in common areas and interview areas to reinforce compliance with program rules and to warn about penalties for fraud and abuse.

Review and Explanation of Forms: During interviews, staff will explain all required forms and review the contents of all (re)certification documents prior to signature.

15.2.2 DETECTING ERRORS AND PROGRAM ABUSE

FH staff will be trained to maintain a high level of alertness to indicators of possible abuse and fraud by assisted families. In addition to taking steps to prevent errors and program abuse, the FH will use a variety of activities to detect errors and program abuse.

Quality Control File Reviews

All initial certification, files will be reviewed prior to occupancy. During occupancy, a percentage of randomly selected annual reexaminations as determined by FH will be reviewed. Such reviews may include, but are not limited to:

- Changes in reported Social Security Numbers or dates of birth.
- Authenticity of file documents.
- Review of signatures for consistency with previously signed file documents.
- Assurance that verification of all income and deduction sources are present.
- Use of available sources of up-front income verification to compare with family-provided information, including HUD's EIV system to compare with family provided information.
- 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 FH will compare family-reported income and expenditures to detect possible unreported income.

Individual Reporting of Possible Errors and Program Abuse

Management and program staff (to include maintenance personnel and policing authorities) will be provided information and/or training to maintain high awareness of circumstances which may indicate program abuse or fraud, such as unauthorized persons residing in the household and unreported income and assets, including personal and real property.

Public Record Bulletins

To be reviewed by management and staff.

State Wage Data Record Keepers

Inquiries to State Wage and Employment record keeping agencies as authorized under Public Law 100-628, the Stewart B. McKinley Homeless Assistance Amendments Act of 1988, may be made annually in order to detect unreported wages or unemployment compensation benefits.

Credit Bureau Inquiries

Credit Bureau inquiries may be made in the following circumstances:

- Application Process.
- Annual Re-certification/interims.
- When an allegation is received by the FH wherein unreported income sources are disclosed.
- When a family's expenditures exceed his /her reported income and no plausible explanation is given.

Enterprise Income Verification (EIV) Inquiries

Enterprise Income Verification is a system that enables the FH to verify participant reported income and identify households that may have under reported their household's annual income. EIV inquires may be made in the following circumstances:

- Annual Re-certification/interims.
- When an allegation is received by the FH wherein unreported income sources are disclosed.
- When a family's expenditures exceed his /her reported income and no plausible explanation is given.

Independent Audits and HUD Monitoring

The FH will use the results reported in any independent audit or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of the FH's error detection and abuse prevention efforts.

15.2.3 INVESTIGATING ERRORS AND PROGRAM ABUSE When the FH will investigate

The FH does not intend to undertake an inquiry or an audit of a participant family arbitrarily. The FH's expectation is that families will comply with HUD requirements, provisions of the lease, and other program rules. The FH staff will make an effort (formally and informally) to orient and educate all families in order to avoid unintentional violations. However, the FH has a responsibility to HUD, to the community, and to eligible families in need of housing assistance, to monitor residents' lease obligations for compliance and, when indicators of possible abuse come to the FH's attention, to investigate such claims.

The FH may initiate an investigation of a participant family in the event of one or more of the following circumstances:

Referrals, Complaints, or Tips: Referrals from other agencies, companies or persons which are received by mail, by telephone or in person, which allege that a participant family is in noncompliance with or otherwise violating the lease or the program rules. Such follow-up will be made providing that the referral contains at least one item of information that is independently verifiable. A notation of the allegation will be retained in the participant family file.

Internal File Review: If the FH staff discovers (as a function of a (re)certification, an interim certification or a quality control review), information or facts which conflict with previous file data, the FH's knowledge of the family, or is discrepant with statements made by the family.

Verification or Documentation: If the FH receives independent verification or documentation, which conflicts with representations in the participant family file (such as public record information, credit bureau reports, police reports or reports from other agencies).

In order for the FH 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 FH will investigate inconsistent information related to the family that is identified through file reviews and the verification process.

Consent to Release of Information [24 CFR 960.259]

FH may investigate possible instances of error or abuse using all available PHA and public records. If necessary, the FH will require applicant/resident families to give consent to the release of additional information.

Analysis and Findings

FH 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 FH will determine:

- Whether an error or program abuse has occurred,
    - Whether any amount of money is owed to the FH, and
    - What corrective measures or penalties will be assessed

Consideration of Remedies

In the case of family-caused errors or program abuse, the FH 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 FH will inform the relevant party in writing of its findings and remedies within 10 business days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which the PHA determined the error or program abuse(s), (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).

15.2.4 FH HANDLING OF ALLEGATIONS OF POSSIBLE ABUSE AND FRAUD

Staff will encourage all families to report suspected abuse to FH. All allegations, complaints and tips will be carefully evaluated in order to determine if they warrant follow- up. The FH will not follow up on allegations which are vague or otherwise nonspecific. They will only review allegations, which contain one or more independently verifiable fact.

Preliminary File Review

An internal file review will be conducted to determine if the subject of the allegation is a participant family of an assisted program and, if so, to determine whether or not the information reported has been previously disclosed by the family.

It will then be determined if the FH is the most appropriate authority to do a follow-up (more so than police or social services). Any file documentation of past behavior as well as corroborating complaints will be evaluated.

Conclusion of Preliminary Review

If, at the conclusion of the preliminary file review, there is/are fact(s) contained in the allegation which conflict with file data, and the fact(s) are independently verifiable, the staff person who discovered the discrepancy will initiate an investigation to determine if the allegation is true or false.

Interviews with Head of Household and/or Family Members

The FH staff person will discuss the allegation (or details thereof) with the head of household and/or family members by scheduling an appointment at the site office. If necessary, an additional staff person may attend such interviews. If appropriate, current consent for release of information forms will be obtained to assist in the FH review.

Enterprise Income Verification (EIV) Inquiries

FH will conduct Enterprise Income Verification inquires to identify households that may have under reported their household's annual income.

15.2.5 HOW THE FH REVIEWS ALLEGATIONS OF ABUSE AND FRAUD

If the FH determines that an allegation or referral warrants follow-up, FH staff will conduct the review. The steps taken will depend upon the nature of the allegation and may include, but are not limited to, the items listed below. In all cases, the FH will ensure, where required, that a written authorization from the program participant for the release of information has been obtained.

Credit Bureau Inquiries (CBIs) In cases involving previously unreported income sources, a CBI inquiry may be made to determine if there is financial activity which conflicts with the reported income of the family.

IRS Returns or W-2's may be requested

Verification of Credit In cases where the financial activity conflicts with file data, a Verification of Credit form may be mailed to the creditor in order to determine the unreported income source.

Employers and Ex-Employers Employers or ex-employers may be contacted to verify wages, which may have been previously undisclosed or misreported.

Neighbors/Witnesses Neighbors and/or other witnesses may be interviewed who are believed to have direct or indirect knowledge of facts pertaining to the FH's review.

Other Agencies Investigators, caseworkers or representatives of other benefit agencies may be contacted.

Public Records If relevant, the FH will review public records kept in any jurisdictional courthouse or county recorder's office. Examples of public records which may be checked are real estate, marriage, and divorce, uniform commercial code financing statements, voter registration, judgments, court or police records, state wage records, utility records and postal records.

15.2.6 PLACEMENT OF DOCUMENTS, EVIDENCE AND STATEMENTS OBTAINED BY THE FH

Documents and other evidence obtained by the FH during the course of an investigation. Will be considered "work product" and will be kept in a separate "work file." The work file will be kept locked. Such cases under review will not be discussed among the FH staff unless they are involved in the process, or have information, which may assist in the investigation.

FH will maintain a Fraud Data Base System (FDBS), which will document the status of the cases and additional information in order to provide a tracking devise for all fraud cases.

Access to the FDBS will be limited to the Executive Director, Director of Housing Management, and/or their designees.

In addition, the FH will track all repayment agreements resulting from an investigation to ensure families are staying current on their repayment agreements.

15.2.7 EVAULATION OF THE FINDINGS

If it is determined that a program violation has occurred, the FH staff will review the facts to determine:

- The type of violation (non-compliance, fraud).
- Whether the violation was intentional or unintentional.
- What amount of money (if any) is owed by the resident?
- If the family is eligible for continued assistance.

Intentional Misrepresentations

When a family falsifies, misstates, omits or otherwise misrepresents a material fact which results (or would have resulted) in an underpayment of rent by the family, an evaluation will determine whether or not:

- The family had knowledge that his/her actions were wrong, and
- That the family willfully violated a program requirement, a Family Obligation, or committed a serious violation of the lease.

Knowledge that the Action or Inaction Was Wrong

This will be evaluated by determining if the family was made aware of program requirements and prohibitions. The family's signature on various certifications, briefing certificate, Personal Declaration Packets, forms HUD-52675 and "What You Should Know About EIV" are adequate to establish knowledge of wrongdoing.

The Family Willfully Violated the Law

Any of the following circumstances will be considered adequate to demonstrate willful intent:

- An admission by the family of the misrepresentation.
- That the act was done repeatedly.
- If a false name or Social Security Number was used.
- If there were admissions to others of the illegal action or omission.
- That the family omitted material facts, which were known to them (e.g., employment of self or other household member).
- That the family falsified, forged or altered documents.
- That the family conveyed and certified to statements during a rent (re)determination which were later independently verified to be false.

15.2.8 NOTIFICATION OF INVESTIGATION RESULTS

The family will be notified by mail of the proposed action no later than ten (10) business days after the conclusion of the Family Conference advising the family that:

- No fraud or misrepresentation was found
- Fraud or misrepresentation was found, but no restitution is owed
- Fraud or misrepresentation was found, and restitution is due the FH

Where due process is required, the notice to the family will comply with the policy in the informal hearing/Grievance chapter of this policy giving the family 10 business days by which to request an appeal. If the family does not reply in this timeframe, the FH will proceed to issue the 30-day notice of termination.

15.3 PART II: CORRECTIVE MEASURES AND PENALTIES

15.3.1 UNDER- OR OVERPAYMENT

An under or overpayment includes an incorrect tenant rent payment by the family, or an incorrect utility reimbursement to a family.

Corrections

Whether the incorrect rental determination is an overpayment or underpayment, the FH must promptly correct the family's rent and any utility reimbursement prospectively.

Increases in the tenant rent will be implemented only after the family has received a 30- day notice.

Any decreases in tenant rent will become effective the first of the month following the discovery of the error.

Reimbursement

Whether the family is required to reimburse FH, or FH 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 FH to use incorrect information provided by a third party.

Family Reimbursement to FH

In the case of family-caused errors or program abuse, the family will be required to repay any amounts of rent underpaid. The FH 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 FH will terminate the family's lease in accordance with the policies in Chapter 13.

FH Reimbursement to Family

The FH 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 FH [Title 18 U.S.C. Section 1001].
- Provide incomplete or false information to the FH [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 FH Board of Commissioners, employees, contractors, or other FH 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 FH 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 FH 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, FH may, at its discretion, impose any of the following remedies.

- FH may require the family to repay any amounts owed to the program (see 15.9, Family Reimbursement to FH).
- FH 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).
- FH may deny admission or terminate the family's lease following the policies set forth in Chapter 3 and Chapter 13 respectively.
- FH may refer the family for state or federal criminal prosecution as described in section 15.11.

15.3.3 FH-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of FH staff with respect to normal program administration are discussed throughout the ACOP. This section specifically addresses actions of a FH staff member that are considered errors or program abuse related to the public housing program. Additional standards of conduct may be provided in the FH personnel policy.

FH caused incorrect rental determinations include:

- Failing to correctly apply public housing rules regarding family composition, income, assets, and expenses, and
- Errors in calculation.

De Minimis Errors [24 CFR 5.609(c)(4); Notice PIH 2023-27]

FH will not be considered out of compliance when making annual income determinations solely due to de minimis errors in calculating family income. A de minimis error is an error where the FH determination of family income deviates from the correct income determination by no more than $30 per month in monthly adjusted income ($360 in annual adjusted income) per family.

FH will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff-caused error, staff program abuse, or a de minimis error.

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Repayment to FH

The family is not required to repay an underpayment of rent if the error or program abuse is caused by FH staff.

FH Reimbursement to Family

FH will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff-caused error, staff program abuse, or a de minimis error.

Prohibited Activities

Any of the following will be considered evidence of program abuse by FH 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 FH.
- Disclosing confidential or proprietary information to outside parties.
- Gaining profit as a result of insider knowledge of FH 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.

15.3.4 DISPOSITIONS OF CASES INVOLVING MISREPRESENTATIONS

In all cases of misrepresentations involving efforts to recover monies owed, the FH may pursue, depending upon its evaluation of the criteria stated above, one or more of the following actions:

Civil Remedies

FH may:

- Terminate tenancy and demand payment of restitution in full.
- Terminate tenancy. Resident may request payment arrangements to settle any outstanding debt.
- Terminate assistance and/or pursue restitution through civil litigation.
- Terminate assistance and seek recovery through garnishment of wages or other forms of collection.
- Permit continued assistance at the correct level and execute an administrative repayment agreement in accordance with the FH's repayment policy.

Criminal Referral

If the FH believes that the case meets the criteria established by the FH for prosecution, the FH may refer the case to other enforcement agencies.

Termination by the FH

In any event, and at the sole discretion of the FH, the FH may terminate a public housing tenancy for a material breach of the lease for discovery of material false statements or fraud, including but not limited to misrepresentation of facts, omitted pertinent information, or failure to inform Management of information it requires for an annual re-certification or interim adjustments, by the family or family member in connection with an application for assistance, with re-certification, or reexamination of income.

15.3.5 FRAUD AND PROGRAM ABUSE RECOVERIES

If the FH enters 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 the FH may retain 100 percent of program funds that the FH recovers [Notice PIH 2007-27 (HA)].

If the FH 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 FH’s grievance procedures.

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Chapter 16- Program Administration

16.1 INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this ACOP. The policies are discussed in seven parts as described below:

Part I: Setting Utility Allowances. This part describes how utility allowances are established and revised. Also discussed are the requirements to establish surcharges for excess consumption of FH-furnished utilities.

Part II: Establishing Flat Rents This part describes the requirements and policies related to establishing and updating flat rent amounts.

Part III: Repayment of Family Debts. This part contains policies for recovery of monies that have been underpaid by families and describes the circumstances under which t FH will offer repayment agreements to families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part IV: Public Housing Assessment System (PHAS). This part describes the PHAS indicators, how FH is scored under PHAS, and how those scores affect a FH.

Part V: Record-Keeping. All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants, and record retention policies FH will follow.

Part VI: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level. This part describes FH's reporting responsibilities related to children with environmental intervention blood lead levels that are living in public housing.

Part VII: Notification to Applicants and Resident regarding Protections under the Violence against Women Reauthorization Act (VAWA). This part includes policies for notifying applicants and residents of VAWA requirements related to notifying families about their rights and responsibilities under VAWA; requesting documentation from victims of domestic violence, dating violence, sexual assault, and stalking; and maintaining the confidentiality of information obtained from victims.

16.2 PART I: SETTING UTILITY ALLOWANCES [24 CFR 965 Subpart E]

16.2.1 OVERVIEW

FH must establish allowances for FH-furnished utilities for all check metered utilities and for resident-purchased utilities for all utilities purchased directly by residents from a utility supplier [24 CFR 965.502(a)].

FH must also establish surcharges for excess consumption of FH-furnished utilities [24 CFR 965.506].

FH 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)].

16.2.2 UTILITY ALLOWANCES [24 CFR 965, SUBPART E]

Utility allowances are provided to families paying income-based rents and/or families who elect to pay a flat rent for their unit size when the cost of utilities is not included in the rent. When determining a family's income-based or flat rent, FH must use the utility allowance applicable to the type of dwelling unit leased by the family.

Utility Allowance Revisions [24 CFR 965.507]

FH reviews its schedule of utility allowances each year. Between annual reviews, FH will 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 taken into account in such revision became effective. Such rate changes shall not be subject to the 60 day notice requirement of Sec. 965.502 (c) [PH Occ GB, p. 171].

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

Unless FH 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.

Utility Reimbursement

When the Utility Allowance exceeds the family's Total Tenant Payment, FH will provide a Utility Reimbursement Payment to the family each month. The check will be made out directly to the family.

Resident-Paid Utilities

The following requirements apply to residents living in developments with resident-paid utilities or applicants being admitted to such developments:

Paying the utility bill is the resident's obligation under the lease. Failure to pay utilities is grounds for eviction.

16.2.3 **SURCHARGES FOR PHA-FURNISHED UTILITIES [24 CFR 965.506]**

Residents in units where FH pays the utilities may be charged for excess utilities if additional appliances or equipment are used in the unit. This charge shall be applied as specified in the lease. [24 CFR 966.4 (b)(2)]

16.2.4 NOTICE REQUIREMENTS [965.502]

FH 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 FH's documentation of which proposed 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. Such written comments shall be retained by FH and shall be available for inspection by residents.
- FH's determination of allowances, scheduled surcharges, and revisions thereof shall be final and valid unless found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.

16.2.5 INDIVIDUAL RELIEF OF UTILITY ALLOWANCE [24 CFR 965.508]

Resident may request for relief from payment of utility supplier billings in excess of the Utility Allowance for resident-paid utilities. Management may grant such requests on reasonable grounds such as the special needs of elderly, ill, or disabled residents, or special factors affecting utility usage that are not within Resident's control, as further described in the Schedule of Utility Charges. These Utility Allowance relief requests must be made to the designated Management staff of the development where Resident resides.

16.3 PART II: ESTABLISHING FLAT

16.3.1 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 means a family whose members include those with citizenship or eligibility immigration status, and those without citizenship or eligible immigration status. [24 CFR 5.504].

This part discusses how FH 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.

16.3.2 FLAT RENTS [24 CFR 960.253(B) AND NOTICE PIH 2022-33

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, FH 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, FHs 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 FH to request an exception flat rent that is lower than either 80 percent of the FMR or SAFMR/unadjusted rent if FH can demonstrate through the submission of a market analysis, that these FMRs do not reflect the market value of a particular property or unit and HUD agrees with the FH's analysis. The market analysis must be submitted using form HUD-5880, "Flat Rent Market Analysis Summary

In order to demonstrate the need for an exception flat rent, FH is required to submit a market analysis methodology that demonstrates the value of the unit. The FH must use HUD's rent reasonableness methodology to determine flat rents. In determining flat rents,FH'ss must consider the following:

- Location
- Quality
- Unit size
- Unit type
- Age of property
- Amenities at the property and in immediate neighborhood
- Housing services provided
- Maintenance provided by FH
- Utilities provided by FH

FH 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 FH in requesting exception flat rents.

FH must receive written HUD approval before implementing exception flat rents. PHAs that use exception flat rents must conduct a new market analysis, and obtain HUD approval, annually. [PIH 2022-33]

FH is 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 [24 CFR 960.253(b)]

FH will review flat rents on an annual basis. If the FMR unadjusted rent is lower than the previous year, FH will adjust flat rents to no lower than 80 percent of the current FMR.

Posting of Flat Rents

FH will publicly post the schedule of flat rents in a conspicuous manner at FH central office and at each site office.

Documentation of Flat Rents [24 CFR 960.253(b)(5)]

FH will maintain records that document the method used to determine flat rents, and that show

how flat rents were determined by the FH in accordance with this method.

16.4 PART III: FAMILY DEBTS TO THE FH [24 CFR 982.552(PIH 2017-12)]

16.4.1 OVERVIEW

This section describes FH's policies and guidelines for the recovery of monies that have been underpaid by families and the use of repayment agreements. Before a debt is assessed against a family, the file must contain documentation to support FH's claim that the debt is owed. The file must further contain written documentation of the method of calculation, in a clear format for review by the family, as appropriate.

When families owe money to FH, every effort will be made to collect the debt. A variety of collection tools to recover debts may be used including, but not limited to:

- Requests for lump sum payments
- Repayment agreements
- Abatements
- Deductions
- Collection agencies
- Civil suits and/or Small Claims Court
- Franchise Tax Board (FTB) for interagency intercept collections
- Credit bureaus
- Submitting the resident's name to HUD's EIV database – Debts Owed to PHAs

16.4.2 REPAYMENT POLICY

Any amount due to FH by a public housing family must be repaid. If the family is unable to repay the debt within 30 days, FH 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, FH will terminate the family's tenancy in accordance with the policies in Chapter 13 and Resident Lease Agreement. FH will also pursue other modes of collection.

A Repayment Agreement is a document entered into between FH and the resident who owes a debt to FH. The Repayment Agreement contains an acknowledgment by the person of the debt in a specific amount, the terms of repayment, any special provisions of the agreement, and the remedies available to FH upon default of the agreement.

Payment Plan

As part of entering a Repayment Agreement, the family must pay all current monthly rent on time in addition to the repayment amount, which should not exceed 40% of the family's monthly adjusted income.

Down Payment Requirement

The Repayment Agreement will require that the family pay 25% of the retroactive amount due and the remaining balance to be paid in equal payments over a period of time not to exceed 12 months for amounts under $2400 or 24 months for any amount in excess of $2400.

Payment Thresholds

The maximum amount for which FH will enter into a payment agreement with a family is $10,000.

If the family refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, FH will terminate the family's tenancy in accordance with the policies in Chapter 13 and Resident Lease Agreement. FH will also pursue other modes of collection.

Late Payments

A payment will be considered to be in arrears if: The payment has not been received by the close of the business day on which the payment was due. If the due date is on a weekend or holiday, the due date will be at the close of the next business day.

If the family's repayment agreement is in arrears, FH may do one or more of the following:

- Require the family to pay the entire amount that has not been paid timely plus the current month's payment in order to avoid termination of tenancy, or
- Require the family to pay the balance in full in order to avoid termination of tenancy, or
- Pursue civil collection of the balance due, or
- Terminate the tenancy.

If the payment is not received by the due date, it will be considered a breach of the agreement and FH will terminate tenancy in accordance with the policies in Chapter 13.

Execution of the Agreement

Repayment Agreements will be executed signed and dated between FH and the head of household or other adult family member.

Due Dates

All payments are due by the close of business on the 1st day of the month. If the 1st does not fall on a business day, the due date is the close of business on the first business day after the 1st.

No Offer of Repayment Agreement

FH may not agree to a repayment agreement if the family already has a Repayment Agreement in place, or if the family has breached previous Repayment Agreements.

FH, at its sole discretion, will determine on a case-by-case basis whether or not to offer a family a repayment agreement for monies owed to FH. All Repayment Agreements must be approved by ~~the District Manager.~~ Community Manager, Regional Manager or authorized Property Management Supervisor.

FH may approve in writing a decrease in the monthly payments, either temporary or permanent, in cases of extreme circumstances after receiving from the family a written request for a decrease and verification of hardship.

Additional Debt Incurred

If the family has a Repayment Agreement in place and incurs an additional debt to FH:

- FH may choose, at its discretion, to agree to more than one Repayment Agreement at a time with the same family.
- If a Repayment Agreement is in arrears more than 30 days, any new debts must be paid in full.

Repayment of Debt for Move Outs will be included in the move out statement.

16.4.3 FAMILY DEBTS DUE TO FRAUD/NON-REPORTING OF INFORMATION

HUD's definition of program fraud and abuse is a single act or pattern of actions that constitutes a false statement, omission, or concealment of a substantive fact, made with intent to deceive or mislead FH.

Immediate Payment of Retroactive Rent where Debt is the Result of Resident Misrepresentation of Failure to Disclose Material Information

If the Resident submits false information on any application, Personal Declaration, certification documents or request for interim adjustment or does not report interim changes in family income or other factors as required by his/her Resident Lease Agreement, and as a result, is charged a rent less than the amount required by HUD's rent formulas, the Resident agrees to reimburse FH for the difference between the rent he/she should have paid and the rent he/she was charged. FH, in its sole discretion, may terminate the Rental Lease Agreement for a material breach and/or may make the rent increase retroactive to the date the income increased. If FH determines that a Resident is liable for the payment of Retroactive Rent, the resulting retroactive rent amount shall be paid immediately by the Resident.

A decision by FH to accept the payment of Retroactive Rent from a Resident shall not constitute a waiver of its right to either terminate the Rental Lease Agreement or otherwise pursue any additional actions allowable under Federal, State or Local Law.

Payment of Retroactive Rent Where Debt is Not the Result of Resident Misrepresentation of Failure to Disclose Material Information

FH, in its sole discretion, may enter into a Repayment Agreement for debt to the FH that did not result from the Resident's submission of false information on any application, Person Declaration, certification documents or request for interim adjustment or from a failure to report interim changes in family income or other factors as required by his/her Rental Lease Agreement. (Example, employer supplied inaccurate earnings).

The monthly retroactive payment plus the amount of rent the resident pays at the time of the repayment agreements executed should be affordable and not to exceed 40 percent of the family's monthly adjusted income. However, PHAs have the discretion to establish thresholds and policies for repayment in addition to HUD required procedures. (Section 16 PIH Notice 2018-18.

16.4.4 REPAYMENT AGREEMENTS AT CONCLUSION OF TENANCY OR RESOLUTION OF EVICTION PROCEEDINGS

FH may enter into a repayment agreement in resolution of a debt incurred by a Resident during the course of his or her tenancy where the Resident has indicated his or her intent to voluntarily vacate. FH may also enter into a repayment agreement in resolution of either a notice to terminate or not renew a tenancy. The terms of such agreements shall be determined at the discretion of the FH. The resident's name will be submitted to HUD's EIV database –Debts Owed to PHAs no later than 60 days of End of Participation in accordance with HUD's EIV policy.

16.4.5 FAMILY DEBTS PAID IN FULL

If FH determines not to enter into a repayment agreement, or if the repayment agreement is breached, and FH demands payment of the balance in full. The family must pay the full amount due and owing in one lump sum. If the family fails to pay, the FH may pursue collection through a collection agency or a civil action and may notify credit agencies of the debt. Whether or not the amount is paid, FH does not waive its right to take other action including termination of tenancy or referral for criminal prosecution in appropriate cases.

16.4.6 PROGRAM FRAUD

If a family owes an amount, which equals or exceeds $10,000, as a result of program fraud, the case will be referred to the Inspector General. Where appropriate, FH will refer the case for criminal prosecution.

16.4.7 TRANSFER REQUEST WHILE UNDER A REPAYMENT AGREEMENT

If the family requests a move to another unit and has a repayment agreement in place and the repayment agreement is not in arrears, the family may be required to pay the balance in full prior to moving to the new unit.

If the family requests a move to another unit and is in arrears on a repayment agreement, unless they pay the balance in full, the request will be denied.

Under special circumstances, FH may make an exception and allow a family to move without paying the entire balance of the debt if the family is current with its payments. FH may also allow a family who is in arrears to become current in order to process a move if the move is for one of the following reasons:

- A natural disaster.
- The unit is uninhabitable or has major UPCS deficiencies that are not the result of a family action or inaction.
- A life-threatening situation, such as the family is a witness to or a victim of a crime and must move for safety reasons. The family will be required to provide proof in such cases.

- VAWA emergency transfer requests.
- Reasonable Accommodation transfer requests.

16.5 PART IV: PUBLIC HOUSING ASSESSMENT SYSTEM (PHAS)

16.5.1 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 FHs, 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.

16.5.2 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. FH's performance is based on a combination of all four indicators.

Indicator 1: Physical condition of the PHA's properties Maximum Score: 40

The objective of this indicator is to determine the level to which a PHA is maintaining its public housing in accordance with the standard of decent, safe, sanitary, and in good repair.

To determine the physical condition of a PHA's properties, inspections are performed of the following five major areas of public housing: 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 the PHA's public housing portfolio.

Indicator 2: Financial condition of a PHA Maximum Score: 25

The objective of this indicator is to measure the financial condition of a PHA for the purpose of evaluating whether it has sufficient financial resources and is capable of managing those financial resources effectively to support the provision of housing that is decent, safe, sanitary, and in good repair.

A PHA's financial condition is determined by measuring the PHA's entity-wide performance in each of the following components: quick ratio, month's expendable net assets ratio, and debt service coverage ratio.

Indicator 3: Management operations of a PHA Maximum Score: 25

The objective of this indicator is to measure certain key management operations and responsibilities of a PHA for the purpose of assessing the PHA's management operations capabilities.

Each project's management operations are assessed based on the following sub indicators: occupancy, tenant accounts receivable, and accounts payable.

An on-site management review may be conducted as a diagnostic and feedback tool for problem performance areas, and for compliance. Management reviews are not scored.

Indicator 4: Capital Fund Maximum Score: 10

The objective of this indicator is to measure how long it takes the PHA to obligate capital funds and to occupy units.

The PHA's score for this indicator is measured at the PHA level and is based on the following sub indicators: timeliness of fund obligation and occupancy rate.

16.5.3 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 PHAS indicators, and the sub indicators under each indicator. The PHA's indicator scores are based on a weighted average of the PHA's public housing projects' scores. PHAS scores translate into a designation for each PHA as high performer, standard performer, substandard performer, or troubled performer.

A high performer is a PHA that achieves an overall PHAS score of 90 or greater, and achieves a score of at least 60 percent of the points available under the physical, financial, and management indicators and at least 50 percent of the points available under the capital fund indicator.

A standard performer is a PHA that has an overall PHAS score between 60 and 89, and achieves a score of at least 60 percent of the points available under the physical, financial, and management indicators and at least 50 percent of the points available under the capital fund indicator.

A substandard performer is a PHA that has an overall PHAS score of at least 60 percent and achieves a score of less than 60 percent under one or more of the physical, financial, or management indicators.

A troubled performer is a PHA that achieves an overall PHAS score of less than 60, or achieves less than 50 percent of the total points available under the capital fund indicator.

These designations can affect a PHA in several ways:

- High-performing PHAs are eligible for incentives including relief from specific HUD requirements and bonus points in funding competitions [24 CFR 902.71].
- PHAs that are standard performers may be required to submit and operate under a corrective action plan to eliminate deficiencies in the PHA's performance [24 CFR 902.73(a)(1)].
- PHAs that are substandard performers will be required to submit and operate under a corrective action plan to eliminate deficiencies in the PHA's performance [24 CFR 902.73(a)(2)].
- PHAs with an overall rating of "troubled" are subject to additional HUD oversight, and are required to enter into a memorandum of agreement (MOA) with HUD to improve PHA performance [24 CFR 902.75].
- PHAs that fail to execute or meet MOA requirements may be referred to the Assistant Secretary to determine remedial actions, including, but not limited to, remedies available for substantial default [24 CFR 902.75(g) and 24 CFR Part 907].

PHAs must post a notice of its final PHAS score and status in appropriate conspicuous and accessible locations in its offices within two weeks of receipt of its final score and designation [24 CFR 902.64(b)(2)].

16.6 PART V: RECORD KEEPING

16.6.1 OVERVIEW

FH 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, FH must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights, and that comply with VAWA confidentiality requirements.

16.6.2 RECORD RETENTION (PIH 2014-20)

During the term of each public housing tenancy FH will retain the last three (3) years of the Form HUD-50058 and supporting documentation related to the family's eligibility, tenancy, and termination, including, but limited to:

- Original Application; income documentation; screening documentation; criminal background check approval form, and original lease processed at time of admission;
- Certification for the past three years, includes criminal background check approval form for a new adult members added to the household;
- Family's signed Declaration of not being assigned a SSN by the SSA;
- Earned Income Disallowance documentation to determine family has exhausted the 48-month lifetime maximum eligibility period or 24-month lifetime maximum eligibility period.

FH will retain the above records for a period of at least three years from the end of participation (EOP) date [24 CFR 908.101].

In addition, FH will keep the following records for at least four years:

An application from each ineligible family and notice that the applicant is not eligible.

- Lead-based paint records as required by 24 CFR 35, Subpart B.
- Documentation supporting the establishment of flat rents and the public housing maximum rent.
- Documentation supporting the establishment of utility allowances and surcharges.
- Documentation supporting PHAS scores.
- Accounts and other records supporting FH budget and financial statements for the program.
- Complaints, investigations, notices, and corrective actions related to violations of Fair Housing Act or the equal access final rule.

- Other records as determined by the FH or as required by HUD.
- If a hearing to establish a family's citizenship status is held, retention of records is five years.

16.6.3 RECORDS MANAGEMENT

All applicant and participant information will be kept in a secure location and access will be limited to authorized FH staff.

FH staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

Privacy Act Requirements [24 CFR 5.212 and Form-9886]

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the FH may release the information collected.

Upfront Income Verification (UIV) Records

Prior to utilizing HUD's EIV system, FH will adopt and implement EIV security procedures required by HUD.

Criminal Records

FH may only disclose the criminal conviction records which FH receives from a law enforcement agency to officers or employees of FH, or to authorized representatives of FH who have a job-related need to have access to the information [24 CFR 5.903(e)].

FH must establish and implement a system of records management that ensures that any criminal record received by FH 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 FH action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

FH must establish and implement a system of records management that ensures that any sex offender registration information received by FH 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 FH action without institution of a challenge or final disposition of any such litigation. This requirement does not apply to information that is public information, or is obtained by FH other than under 24 CFR 5.905.

Medical/Disability Records

FH is not permitted to inquire about the nature or extent of a person's disability. FH may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If FH receives a verification document that provides such information, the FH should not place this information in the resident file. FH should destroy the document.

Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking Records:

FH's obligation to keep confidential any information that it receives from a victim unless

- FH has the victim's written permission to release the information,
- It needs to use the information in an eviction proceeding, or
- It is compelled by law to release the information.

All information obtained regarding the above will be maintained in a separate file.

16.7 PART VI: REPORTING REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL

16.7.1 REPORTING REQUIREMENTS [24 CFR 35.1130(E); NOTICE PIH 2017-13]

FH will provide the public health department written notice of the name and address of any child identified as having an environmental intervention blood lead level.

FH will provide written notice of each known case of a child with an environmental intervention blood level to the HUD field office within (five) 5 business days of receiving the information.

16.8 PART VII: NOTIFICATION TO APPLICANTS AND TENANTS REGARDING PROTECTIONS UNDER THE VIOLENCE AGAINST WOMEN ACT (VAWA)

16.8.1 OVERVIEW

The Violence against Women Reauthorization Act (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 FH policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and FH policies are located in Chapter 3, "Eligibility"; Chapter 5, "Occupancy Standards and Unit Offers"; Chapter 8, "Leasing and Inspections" Chapter 12, "Transfer Policy"; and Chapter 13, "Lease Terminations".

The Violence Against Women Reauthorization Act (VAWA) requires FH to inform public housing residents of their rights under this law, including their right to confidentiality and the limits thereof. Since VAWA provides protections for applicants as well as residents, FH will provide the same information to applicants [24 CFR 5.2007(3)].

This part describes the steps that the FH will take to ensure that all actual and potential beneficiaries of its public housing program are notified about their rights under VAWA.

16.8.2 VAWA NOTIFICATION

FH 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. FH will post the following information regarding VAWA in its offices and on its Web site. It will also make the information readily available to anyone who requests it.

- A notice of occupancy rights under VAWA to public housing program applicants and residents who are or have been victims of domestic violence, dating violence, sexual assault, , stalking, or human trafficking (VAWA Form HUD-5380, see Exhibit 16-1)
- A copy of VAWA Form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, , stalking, or human trafficking and Alternate Documentation (see Exhibit 16-2)
- A copy of the FH's emergency transfer plan (VAWA Form HUD-5381) (Exhibit 16- 3)
- A copy of HUD's Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, , stalking, or human trafficking, (VAWA Form HUD-5383) (Exhibit 16-4)
- A copy of FH's VAWA policy, (Exhibit 16-5)
- 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.

16.8.3 NOTIFICATION TO APPLICANTS

FH will provide denied applicant with notification of their protections and rights under VAWA along with the VAWA self-certification form (VAWA form HUD-5382).

The notice will explain the protections afforded under the law, inform each applicant of FH confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.

The VAWA information provided to applicants will consist of the notices in Exhibit 16-1 and 16-2.

16.8.4 NOTIFICATION TO RESIDENTS [24 CFR 5.2007(3)]

FH will provide all residents with notification of their protections and rights under VAWA at the time of admission, at denial of assistance, at lease termination and eviction.

The notice will explain the protections afforded under the law, inform the resident of FH's confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.

Whenever FH has reason to suspect that providing information about VAWA to a public housing resident might place a victim of domestic violence at risk, it will attempt to deliver the information by hand directly to the victim.

16.8.5 DEFINITIONS [24 CFR 5.2003, FR NOTICE 11/16/16]

As used in VAWA:

- The term actual and imminent threat means, to a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include: The duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur.
- The term affiliated individual means, with respect to an individual:
- A spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in the position or place of a parent; or guardian (for example, the affiliated individual is a person in the care, custody, or control of that individual); or
- Any individual, tenant or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.
- The term bifurcate means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law, subject to permissibility of such process under the requirements of the applicable HUD-covered program and State or local law, such that certain resident (s) or lawful occupants can be evicted or removed while the remaining resident (s), family member (s), or lawful occupant (s) can be evicted or removed and the remaining resident (s) or lawful occupant (s) can continue to reside in the unit under the same lease requirements or may be revised depending on the eligibility for continued occupancy of the remaining resident (s) and lawful occupant (s).
- 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 under the family or domestic violence laws of the jurisdiction receiving grant funding and, in the case of victim services, includes the use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by

a person who:

- Is a current of former spouse or intimate partner of the victim, or person similarly situated to a spouse of the victim.
- Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner:
- Shares a child in common with the victim; or
- Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.

The term **economic abuse** means: behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire , use, or maintain economic resources to which they are entitled, including using coercion, fraud, or manipulation to:

- Restrict a person's access to money, assets , credit, or financial information;
    - Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage; or
    - Exert undue influence over a person's financial obligations, exploiting powers or attorney, guardianship, or conservatorship, or failing or neglecting to act in the best interests of a person to whom one has a fiduciary duty.

The term **technological** abuse means: an act or pattern of behavior that occurs within domestic violence, sexual assault, dating violence, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, or monitor, except as otherwise permitted by law, another person, that occurs using any form of technology, including but not limited to: internet enabled devices, online spaces and platforms, computers, mobile devices, cameras and imaging programs, apps, location tracking devices, or communication technologies, or any other emerging technologies.

The term **spouse or intimate partner of the victim** includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of relationship, and the frequency of integration between the persons involved in the relationship.

- 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.

16.8.6 DOCUMENTATION [24 CFR 5.2007]

FH presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault, , stalking, or human trafficking, or criminal activity related to any of these forms of abuse may, but is not required to, request that the individual making the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. FH may extend this time period at its discretion. [24 CFR 5.2007(a)]

The individual may satisfy FH's request by providing any one of the following three forms of documentation [24 CFR 5.2007(b)]:

- A completed and signed HUD-approved certification form (HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, , stalking, or human trafficking), 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
- A federal, state, tribal, territorial, or local police report or court record, or an administrative record
- Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault, , stalking, or human trafficking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; a mental health professional; or a medical professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

FH may require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under "Conflicting Documentation,"

Any request for documentation of domestic violence, dating violence, sexual assault, stalking, or human trafficking will be in writing, will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

FH may, in its discretion, extend the deadline for 10 business days. Any extension granted by the FH will be in writing.

Conflicting Documentation [24 CFR 5.2007]

In cases where FH 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, FH may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3). FH must honor any court orders issued to protect the victim or to address the distribution of property.

If FH is presented with conflicting certification documents (two or more forms HUD-5382) from members of the same household, FH 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.

Discretion to Require No Formal Documentation [24 CFR 5.2007(d)]

FH 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).

If FH accepts an individual's statement or other corroborating evidence of domestic violence, dating violence, sexual assault, stalking, or human trafficking, FH will document acceptance of the statement or evidence in the individual's file.

Failure to Provide Documentation [24 CFR 5.2007]

In order to deny relief for protection under VAWA, FH 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 FH may allow, FH may deny relief for protection under VAWA.

16.8.7 CONFIDENTIALITY [24 CFR 5.2007(B)(4)]

All information provided to FH regarding domestic violence, dating violence, sexual assault, stalking, or human trafficking, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, must be retained in confidence. This means that FH:

May not enter the information into any shared database,

- 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
- May not provide the information to any other entity or individual, except to the extent that the disclosure is:
- Requested or consented to by the individual in writing,
- Required for use in an eviction proceeding, or
- Otherwise required by applicable law.

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, FH will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

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CHAPTER 17 – MIXED FINANCE DEVELOPMENTS

[24 CFR Part 941 Subpart F]

17.1 INTRODUCTION

This chapter will provide guidance related to FH's mixed finance developments. FH will ensure that these units operate in accordance with federal requirements, including those in the Annual Contributions Contract (ACC) and the Mixed Finance ACC Amendment; governing regulations for the public housing program and its own policies contained in this ACOP; including requirements and policies as established by the Low Income Housing Tax Credit (LIHTC) program as governed by Section 42 of the Internal Revenue Code (IRC) federal tax code, and HUD guidelines (HUD Handbook 4350.3 Change 4) for tax credit units and per the respective properties management plan.

17.2 PART I: PUBLIC HOUSING

17.2.1 PUBLIC HOUSING UNITS

All public housing units in a mixed finance property shall follow all policies as set forth in this ACOP.

17.2.2 ELIGIBILITY/INCOME LIMITS

Households must be eligible for whichever program(s) applies to their unit and follow the income limits according to the program(s). An applicant must qualify for the program, which sets the lowest income limit for the unit.

17.2.3 SITE-BASED INTEREST LIST

All mixed finance developments will maintain an interest list. To establish an interest list, pre-applications will be accepted from any family wishing to apply at any specific Mixed Development. FH/Agent may select one or more of the following methods for pre- application:

- Submitted online via FH website or property specific website.
- By mail
- Submitted in person
- Over the phone
- By other methods as described in the public announcement.

At the time the FH/Agent announces its intent to open the interest list, the actual methods of accepted pre-applications will be clearly stated in the public announcement and similar outreach methods.

If an applicant is disabled and requires special accommodation in submitting a pre- application, and the disability is obvious, the FH will accommodate the request without verifying the disability. Specific instructions for making a reasonable accommodation request will be included in the public notice and other pre-application outreach materials.

The methods listed above will be the same as listed in chapter 4 of this ACOP.

17.2.4 HOUSING CHOICE VOUCHERS

Applicants with a Housing Choice Voucher/Tenant Based Voucher (TBV) may not occupy a public housing unit. (24 CFR Part 982 Subpart H). Some mixed finance properties accept the TBV for the tax credit (Section 42) units only.

17.2.5 TRANSFERS

Residents in a fixed public housing unit may transfer to a new unit and retain their status as a public housing resident only if the new unit is designated as public housing. If the public housing unit floats, then the residents may transfer and will retain their public housing status. Transfers will be made within the mixed finance development in accordance with the IRS Form 8609.

All transfers will be in accordance with Chapter 12, Transfer Policy of this plan.

17.2.6 RENTS

Public housing units generating tax credits may collect more revenue than the maximum allowable tax credit rent as long as resident portion does not exceed this maximum amount and as long as the resident is receiving at least $1.00 of subsidy; however, if the unit is a tax credit/public housing unit and the resident chooses the public housing established flat rent, the flat rent may not exceed the maximum allowable tax credit rent because there is no subsidy received.

17.2.7 GRIEVANCE PROCEDURES

Public housing residents in a Mixed Finance Development have the right to grievance procedures. See section 3.6.15 of the ACOP

17.3 PART II - LOW INCOME HOUSING TAX CREDIT (LIHTC) UNITS

All LIHTC units shall follow all requirements and policies as established by Section 42 of the federal tax code and HUD guidelines (HUD Handbook 4350.3 REV01).

ELIGIBILITY/INCOME LIMITS

Households must be eligible for whichever program(s) applies to their unit and follow the income limits according to the program(s). An applicant must qualify for the program which sets the lowest income limit for the unit. When a public housing/tax credit resident loses status as a tax credit resident, tenancy will continue to be governed by the requirements of the public housing program.

MINIMUM INCOME

Households must meet the established minimum income policies for the development.

FULL TIME STUDENTS

Generally, households comprised entirely of full-time students are not eligible for the program. Program rules provide one or more of the exceptions required. The lease will state that if at future reexamination all family members are full time students and the family does not qualify for an exception, the household will be ineligible and will have to vacate the tax credit unit.

FAMILY SIZE AND THE INCOME LIMIT

Unborn children are included as household members when determining family size for comparison of annual income to the income limits.

VERIFICATION OF ASSETS

IRS Revenue Procedures 94-65 states that if the total cash value of the family assets does not exceed $50,000, the family could self-certify the existence, value of, and income earned from their assets. No further verification is necessary. 24 CFR 5.609(A)

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Chapter 18 - Banning Policy

18.1 INTRODUCTION

The following is the policy governing the implementation, administration, and enforcement of the FH banning regulation.

18.1.1 DUTIES AND RESPONSIBILITIES

At the discretion of the Senior Regional Manager or Regional Manager, property management staff shall have the primary responsibility for the implementation, administration and enforcement of the Banning Regulation as it pertains to their respective assigned housing development and scattered sites. RegionalManager, and/or designated property management staff shall be responsible for notifying residents of persons banned from FH property.

Security personnel and law enforcement personnel contracted to provide services at the various housing developments shall participate in the enforcement of the Banning Regulation. Such enforcement may include properly identifying trespassers, issuing citations, and notifying the respective property management staff of such violation.

Site staff shall, upon approval by the Director of the Housing Management Division, and at the discretion of the designated Senior Regional Manager or Regional Manager responsible for identifying Banning violators, documenting violations by both residents and non-residents, and notifying the appropriate designated property management supervisors of such violations.

18.1.2 BANNING REGULATION

A non-resident, including, but not limited to, a guest or visitor of a resident, may be banned for twelve (12) consecutive months if they commit the following act(s) in or upon any area of the FH development within a twelve (12) month period.

- Any misdemeanor or infraction that disturbs the peaceful enjoyment of the development, including, without limitation, illegal drug activity or violent criminal activity.
- Destruction of either FH property or private property. Interfering with the job responsibilities of a FH employee or vendor.
- After warning, continuing to disturb other residents' peaceful enjoyment of the complex.
- Has been previously evicted from the premises or any other FH properties.

The non-resident may be banned if they commit one misdemeanor or infraction involving possession of a controlled substance or one felony under state or federal law in or upon any area of the FH development including without limitation, illegal drug activity or violent criminal activity.

The FH development includes, but is not limited to, a private road or curb area, sidewalk, parking lot, alley, park grounds, playground, basketball court, hallway, stairway, laundry or recreational room, community center, or other common area grounds, place, building or vacant lot on FH property.

If a non-resident violates the provisions above, he or she may be served with a banning notice excluding the non-resident from the FH development for twelve (12) consecutive months. At the time the non-resident is served, he or she will be requested to sign a form acknowledging receipt of the banning notice. A proof of service form shall be completed, along with documentation of the incidents leading to the banning notice.

Residents known to associate with the banned non-resident shall receive written notice from FH identifying the banned individual. The notice will also state that, pursuant to the Resident Lease Agreement, the resident, or member of the resident's household, shall not allow the banned person to be a guest within the FH development.

A list of banned non-residents will be distributed to FH management and staff, security personnel and law enforcement, as appropriate.

If a banned non-resident comes on the FH development, he or she may be cited for trespassing.

If the banned non-resident enter a FH development with a resident who has received notice of the person's banned status, the resident will receive a lease violation. If the resident has not received a notice, the resident will be provided notice and warned regarding future violations regarding the banned non-resident.

18.1.3 BREACH OF THE LEASE

One violation of the Banning Regulation by any household member of a unit shall constitute a minor breach of the Resident Lease Agreement. Two or more violations of the Banning Regulation within a 12-month period by any household member (in any combination) may, depending upon the seriousness of the violation' (to be determined by FH Management) constitute a material breach of the Resident Lease Agreement and shall be sufficient grounds for termination of the Lease Agreement.

18.1.4 NOTICES AND RECOMMENDATIONS

Once a resident is notified, in writing, of a non-resident being banned from FH's property, the resident is deemed to have been placed on notice that pursuant to their Lease Agreement they are prohibited from allowing a person who has been banned from FH property to be a guest and/or visitor of the resident

within the housing development. If a resident is observed associating with a banned non-resident within the housing development, he or she will be cited for a lease violation.

- **First Violation**: Written notice shall be served on all adult household members, by FH, advising of the lease violation. The notice shall constitute a WARNING to the household that subsequent violations may result in termination of the Lease Agreement.
- **Second Violation**: Written notice of a second lease violation shall be served on all adult household members and shall provide an opportunity for counseling for the head of household and household members. The Property Manager shall schedule a counseling appointment within ten (10) business days of the second violation notice.
- **Third Violation**: A Thirty-Day Notice to Terminate Tenancy will be served on all adult

household members if more than two violations are issued within a twelve (12) month period.

18.1.5 ENFORCEMENT

- Regional Managers and/or designated property management staff shall have the authority to issue lease violations for non-compliance of the Banning Regulation.

18.1.6 GRIEVANCE PROCEDURE

FH residents shall have the right to file a grievance in response to actions taken by FH concerning issuance of a Banning Notice or violations of the Banning Regulation.

The FH Grievance Procedure is subject to the Code of Federal Regulations, Title 24, Part 966, as amended. Residents shall follow the grievance procedures as set forth in Chapter 14 of this policy.

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Chapter 19 – Quiet Hours and Common Areas Policy

19.1 INTRODUCTION

The following is the policy governing the implementation, administration, and enforcement of the FH Quiet Hours and Common Areas Policy.

19.1.1 DUTIES AND RESPONSIBILITIES

At the discretion of the Senior Manager of Property Management or Senior Regional Managers, the RegionalsManager and designated property management staff shall have the primary responsibility for implementation, administration and enforcement of the Quiet Hours and Common Areas Policy as it pertains to their respective assigned housing developments and scattered sites.

Security personnel and law enforcement personnel contracted to provide services at the various housing developments shall participate in the enforcement of the Quiet Hours and Common Areas Policy. Such enforcement may include properly identifying quiet hours and common area violators and notifying the appropriate property management staff of such violations.

19.1.2 QUIET HOURS

No resident, household member or invitee who is on the premises shall make, cause, or permit to be made or caused any sound or noise resulting in discomfort or annoyance to any reasonable person of normal sensitivity residing or working in the housing complex between the hours of 10:00 p.m. on any day and 6:00 a.m. of the following day. Additionally, no person shall loiter in the housing complex common areas in such a way as to interfere with the free use and enjoyment, passage or convenience of a RESIDENT or their invitee.

"Remain" means to stay behind, to tarry and to stay unnecessarily in or upon FH common area, including the congregating of groups of persons, in whom someone involved is not on or upon FH common area for the purpose of mere passage or going home.

A resident or other person having the legal care, custody or control of any household member, guest, or invitee shall not knowingly permit or by ineffective control allow the household member or guest or invitee to violate the quiet hours and common areas regulation. The term "knowingly" includes knowledge that resident or household member should reasonably be expected to have concerning the whereabouts of other household member, guests, or invitee. This requirement is intended to hold a neglectful or careless resident up to a reasonable community standard of responsibility.

It shall be no defense that a resident was indifferent to the activities or conduct or whereabouts of such guest(s), visitor(s), or other household member.

19.1.3 BREACH OF THE LEASE

Two violations of the Quiet Hours and Common Areas policy by any household member, guest, visitor, or invitee of a unit shall constitute a minor breach of the Resident Lease Agreement. Three or more violations of the Quiet Hours and Common Areas policy within a 12-month period of time by any household member (in any combination) shall constitute a material breach of the Resident Lease Agreement and shall be sufficient grounds for termination of the Resident Lease Agreement.

19.1.4 NOTICES AND RECOMMENDATIONS NOTICE

All lease signers shall receive a copy of any citations for violation of the lease or addenda:

First Violation: Written notice shall be served on all lease signers, by FH management, advising of violation and that Head of Household is responsible for the household member(s), visitor(s), or guest(s)' or invitees' conduct. The notice shall constitute a WARNING to the Household that subsequent violations may result in termination of the Resident Lease Agreement.

Second Violation: Written notice of a second violation shall be served on all lease signers and shall provide an opportunity for counseling. The Regional Manager should schedule the appointment for said counseling within ten (10) business days of the second violation notice.

Third Violation: Written notice of third violation shall be served on all lease signers, and the appropriate remedy shall be enforced as set forth below.

19.1.5 REMEDIES

Review of Resident File

When a household member or members, guest(s), visitor(s), or invitee have been cited three times within a 12-month period for violating the Quiet Hours and Common Areas policy, the property management staff shall conduct a review of the resident's historical file to determine the overall resident record. Based on such review, one of the following actions shall be taken:

- Recommendation for Referral: The designated property management staff shall offer a referral to counseling, if available, to a family in lieu of an eviction notice. Such option is available only if within the last 12 months preceding the third quiet hours and common areas violation the resident or household members have not received three (3) or more of any combination of the following:
- 14-Day Notice
- 3 Day Notice to Perform or Quit Notice to Pay Maintenance Charges Counseling for any lease violation(s)
    - 30-Day Notice to Cure or Quit
- Thirty-Day Notice to Quit
- If lease signers should fail to complete referred sessions or have received three (3) or more of the aforementioned notices, the designated property management staff shall serve a Thirty-Day Notice to Quit based on the Quiet Hours and Common Areas Policy and, if appropriate, other violations of the lease.

19.1.6 ENFORCEMENT

Security Personnel/Law Enforcement

Security personnel and law enforcement personnel contracted to provide services at the various housing developments shall participate in the enforcement of Quiet Hours and Common Areas Policy. Such enforcement shall include:

- Violation Recognition: Should security/law enforcement officers observe anyone in or about any common area of the FH developments between the hours of 10:00 p.m. and 6:00 a.m., said officers shall have the authority to inquire of the person(s) as to their identity, whether they are residents of the housing development, and their reason(s) for being out during quiet hours. The purpose of the inquiry is to determine whether the person(s) are in violation of the Quiet Hours and Common Areas Policy.
- Should security/law enforcement officers observe anyone in any common area of the FH developments, said officers shall have the authority to inquire of the person(s) as to their identity, whether they are residents of the housing development, and their reason(s) for being in the common area.
- Citing Violations: Upon determining that a resident, guest, or visitor is in violation of the Quiet Hours and Common Areas Policy, the Regional Manager or designated staff may then issue a written citation.
- Enforcement by Management, Community Manager, Property Specialist II, and Regional Managers and/or designated property management staff shall have the authority to serve citations for violations of the Quiet Hours and Common Areas Policy.

19.1.7 GRIEVANCE PROCEDURE

Residents shall have the right to file a grievance in response to actions taken by the FH concerning violations of the Quiet Hours and Common Areas Policy.

The FH Grievance Policy is subject to the Code of Federal Regulations, Title 24, Part 966, revised as of April 1, 1985, and as further amended. Residents shall follow the grievance procedures as set forth in Chapter 14 of this policy.

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CHAPTER 20 – LIPH FAMILY SELF-SUFFICIENCY (FSS) PROGRAM

[24 CFR 984.101 – 401]

20.1 INTRODUCTION

The FSS program encourages families to attain economic independence and self-sufficiency. Families receiving Low Income Public Housing (LIPH) rental assistance and participating in FSS are provided one-on-one case management services to identify career/education goals, build assets, increase earnings, and/or achieve homeownership. The objective of the FSS program is to assist low-income families in reducing/eliminating dependency on government assistance programs.

20.2 FAMILY ELIGIBILITY [24 CFR 984.103]

Participation in the FSS program is on a voluntary basis for families receiving rental assistance through the LIPH program administered by the FH.

20.3 PROGRAM COORDINATING COMMITTEE (PCC) [24 CFR 984.202]

The FH collaborates with a program coordinating committee (PCC) consisting of representatives from the public and private sector. The PCC is responsible to assist the FH in developing the FSS Action Plan. Other responsibilities include partnering with community organizations to provide supportive services and community resources to assist FSS families in overcoming barriers to self-sufficiency. These include, but are not limited to:

- Childcare
- Education
- Transportation
- Counseling
- Employment readiness
- Vocational training
- Homeownership education

20.4 FSS FAMILY SELECTION PROCESS [24 CFR 984.203]

The FH will open the FSS interest list as needed in order to maintain the minimum program size. When the interest list is open, families may use any one or more options to be placed on the interest list:

- Call the FH
- Submit an FSS Application in person or by mail

Families are contacted according to the date and time the family expressed an interest.

Eligible families are mailed an invitation to attend a one-on-one FSS orientation with an FSS Coordinator. At the orientation the family is given a general overview of the program and details on the roles and responsibilities of FSS participants, as well as the role of the FH. A description of supportive services, escrow accounts, program policies, expectations, and requirements for successful completion of the program is provided. Families and FH representative sign a Contract of Participation, Individual Training and Services Plan (ITSP), and complete the family profile. A needs assessment is conducted to develop the ITSP for achieving self-sufficiency.

Families who decide at the orientation not to participate in FSS will be removed from the FSS interest list.

20.5 DENIAL OF FSS PARTICIPATION [24 CFR 984.303]

The FH may deny participation to families who:

- Owe money to the FH or any other Public Housing Authority (PHA)
- Failed to comply with the LIPH program at any PHA
- Failed to comply with the FSS program at any PHA
- Have successfully graduated from the FSS program with any PHA and received a full escrow payout.

20.6 CONTRACT OF PARTICIPATION [24 CFR 984.303]

The designated Head-of-Household (HOH) and the FH representative must sign a Contract of Participation, which describes the rights and responsibilities of the FSS family and the FH. The effective date of the contract is the first month following the date both parties have signed the Contract of Participation. The term limit is five (5) years.

Essential Components

The following information must be entered into the contract for it to be valid:

- Contract start and end date
- Annual income
- Earned income
- Family rent portion (TTP or 30 percent of Monthly Adjusted Income for vouchers)
- Participant's signature and date
- FH Representative signature and date

Contract Extensions

Contracts may be extended up to a maximum of two (2) additional years with the approval of the FH. A written request must include "good cause," e.g., an FSS family is unable to complete the ITSP goals due to circumstances beyond the family's control. Other examples of "good cause" include but are not limited to:

- Serious illness
- Involuntary loss of employment
- Death in the family

- Separation/divorce
- Physical/mental impairment, external economic factors or other excruciating circumstances beyond the participants control which will require additional time to change and/or complete education/career goals
- Pursuit to homeownership
- Pursuit of higher education

During an extension to the contract, the family continues to have FSS amounts credited to the escrow account in accordance with 24 CFR 984.304.

Termination of the Contract

[24 CFR 984.303(h)]

The contract of participation is automatically terminated if the family's LIPH rental assistance is terminated in accordance with HUD requirements. The contract of participation may be terminated before the expiration of the contract term, and any extension granted by the FH. The contract may be terminated for terms and conditions listed below:

- Failure of the FSS family to meet the obligations under the Contract of Participation without good cause;
- Failure to comply with the Contract requirements because the family has moved outside the jurisdiction of the FH;
- Failure to comply with the lease and the rules and regulations
- Such other act as is deemed inconsistent with the purpose of the FSS program.

The Contract of Participation may also terminate due to:

- Mutual consent of the parties;
- The family's withdrawal from the FSS program.

Completion of the Contract

The Contract of Participation is considered to be completed, and a family's participation in the FSS program is considered to be concluded when one of the following occurs:

- The FSS family has fulfilled all of its obligations under the contract and obtained suitable employment on or before the expiration of the contract term, including any extension thereof, or
- The thirty (30) percent of the FSS family's monthly adjusted income equals or exceeds the base rent for the size of the unit for which the family qualifies based on FH occupancy standards.

20.7 INDIVIDUAL TRAINING AND SERVICES PLAN (ITSP) [24 CFR 984.303]

The ITSP plan identifies the participants' job-related final goal, as well as interim goals. Timelines for completion are established for each goal. The final goal must include suitable full-time employment, which also demonstrates advancement in education/employment/vocational training. FSS coordinators monitor the progress of each FSS family.

The ITSP shall include:

- The resources and services to be provided by the HA
- Targeted completion dates for each individual interim goal
- Referrals for career, education, and job-related activities
- Final goal to obtain suitable full-time employment
- Interim goal must include the requirement to be off welfare assistance for twelve (12) consecutive months prior to the completion/expiration of the Contract, including any extensions. [24 CFR 984.303(b)(2)]
- Participant's signature and date
- FH Representative signature and date

The participant may change the goals and services in the ITSP by submitting a written request for the change. The final employment goal can be changed only if; 1) the new goal demonstrates full-time suitable employment and supports FFS program goals for self- sufficiency and 2) The interim goals aligns with the final goal. The ITSP goals may be revised no more than three (3) times during the five-year contract period or any extension thereof.

Change in Head of Household

The FSS participant may designate a new HOH if the current HOH is unable to complete his/her obligations under the Contract of Participation. The request must be submitted to the FH in writing. The new HOH must sign and complete a new contract of participation and a new ITSP for goals and services. The start and end date of the new contract will remain the same as the original contract of participation.

Household with more than one ITSP

The FSS family may have more than one ITSP in a single household. Although, other adults are eligible to enter into their own individual ITSP, the Contract of Participation remains with the HOH and each adult family member with an ITSP must complete the activities in the ITSP. The additional adults will not be eligible for an escrow pay out.

20.8 FSS ESCROW ACCOUNTS [24 CFR 984.305]

As incentive for families to join the FSS program and as a strategy to assist families in building assets, HUD regulations allow an escrow account to be established on behalf of eligible families. Eligibility for an escrow account is determined according to a HUD- defined formula using the family's earned income data [24 CFR 982.505].

As the family's earned income increases and the household rent increases, the FH calculates escrow eligibility according to the HUD formula to determine the amount of escrow credits. Escrow funds are held in the participant's name until the participant has met the requirements for final escrow disbursement.

Under the requirements for escrow disbursement, the FSS participant must have:

- Completed the goals in the ITSP
- Obtained suitable employment. The FH has determined suitable employment for the HOH as year round full-time sustainable employment to be not less than thirty (30) hours per week and the gross annual income is equal to or exceeds the state minimum wage multiplied by nineteen hundred and fifty (1950) hours. Seasonal employment does not meet the FH standards for suitable employment unless the HOH is employed all year round with multiple seasonal jobs.
- Certify that all members of the household have not received welfare assistance for twelve (12) consecutive months prior to the expiration of the term of the contract, including any extension thereof.
- Achieve an annual anticipated income whereby thirty (30) percent of the family's monthly adjusted income is equal to or exceeds the base rent for the size of unit which the FSS family qualifies based on the HA's occupancy standards.

The FH cannot restrict a family's use of FSS escrow account funds withdrawn by the family unless it is an interim disbursement to aid in the completion of an interim goal.

Interim Disbursement

[24 CFR 984.305(2)(ii)]

The FH may disburse a portion of the funds from the family's escrow account during the Contract of Participation for completing an interim goal, if the funds are used for purposes consistent with the Contract of Participation, such as, but not limited to:

- School tuition
- Business start-up expenses
- A vehicle if public transportation is unavailable or inaccessible to the family
- Job training expenses
- Down payment for a home

Forfeiture of Escrow Account

[24 CFR 984.305(f)]

The FSS escrow account may be forfeited if the family fails to comply with the FSS program, and any one of the following is true:

- The Contract of Participation is terminated, according to 24 CFR 984.303 (e),(h)
- The Contract of Participation is declared null and void

- The family has not met its responsibilities as stated in the Contract of Participation
- The HOH has failed to obtain suitable employment on or before the expiration of the contract term, including any extension thereof
- An intergenerational family, whose HOH becomes independent of welfare assistance, however another family member (or other members) of another household in the same family continue to receive Temporary Assistance for Needy Families (CALWORKS). Note: if the family is receiving a CALWORKS child-only grant, or CALWORKS non-needy grant as stated in HUD Notice PIH 2007-20, forfeiture of the escrow account will not be considered.
- The head of the family dies and the remaining members of the family choose not to continue participating in the program, and the contract obligations were not met by the HOH prior to his/her departure.

Succession to FSS Account

[24 CFR 984.305(d)]

If the FSS HOH no longer resides with other family members in the assisted unit, the other remaining adult members of the FSS family have the right to designate another adult family member to receive the funds. The FH must be consulted and must approve this change. The request for change of HOH must be submitted in writing, and must include the following:

- The name of the new designated FSS HOH
- The signature of the new FSS HOH
- The effective date of the change

An addendum to the FSS Contract must include the effective date of change and must be signed by the new HOH and the FH representative.

20.9 GRIEVANCE

The FSS participant will be notified via mail of decisions affecting the family's participation in the FSS program. The notification will include the reasons for the decision and the FH policies and HUD regulations supporting it. If the participant disagrees with the decision, an appeal may be made within ten (10) business days of the notification (for any issues which can be appealed per 24 CFR 982.555(a)(1) and 984.303(i). The appeal must be submitted in writing to the FH for review. The family will be notified in writing of the due process, including the date set for an informal hearing.

20.10 TRANSFER

The FSS family cannot port outside FH jurisdiction. However, the FSS family may transfer from one unit to another within the jurisdiction with the approval of FH, when the following occurs.

- Emergency Transfers
- Required Transfers

- Resident Requested Transfers

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CHAPTER 21 – LIMITED ENGLISH PROFICIENCY (LEP)

21.1 INTRODUCTION

This chapter describes how FH will undertake reasonable efforts to provide or arrange free language assistance for its LEP participants and applicants in the public housing programs as well as the general public.

21.2 MEANINGFUL ACCESS; FOUR-FACTOR ANALYSIS

Meaningful access is free language assistance in accordance with federal guidelines. The FH will assess and update at least annually the following four-factor analysis, including but not limited to:

- The number or proportion of LEP persons eligible to be served or likely to be served by the FH.
- The frequency with which LEP persons using a particular language come into contact with the FH.
- The nature and importance of the FH program, activity or service to the person's life.
- The FH's resources and the cost of providing meaningful access.

21.3 LANGUAGE ASSISTANCE

The following language assistance policies will apply:

- A person who does not speak English as their primary language AND who has a limited ability to read, write, speak or understand English may be a Limited English Proficient (LEP) person and may be entitled to language assistance with respect to FH programs and activities.
- Language assistance includes interpretation, which means oral or spoken transfer of a message from one language into another language; and/or translation, which means the written transfer of a message from one language into another language. FH will determine when interpretation and/or translation services are needed and are reasonable based upon the four-factor analysis.
- FH staff will take reasonable steps to provide language assistance to LEP clients who have difficulty communicating in English. Should a client ask for language assistance and FH determines that: a) the client is a LEP person and b) such assistance is necessary to provide meaningful access, FH will make reasonable efforts to provide free language assistance. FH will provide the language assistance in the LEP client's preferred language upon request.

FH will periodically assess client needs for language assistance based on the frequency of requests for interpreters and/or translation, as well as the literacy skills of clients.

21.4 TRANSLATION OF DOCUMENTS

FH will consider the following factors in determining whether a document requires translation:

- Whether the document meets the threshold of a "vital document". Per HUD guidance, "vital documents" are those that are critical for ensuring meaningful access by beneficiaries or potential beneficiaries generally and LEP persons specifically.
- The costs and benefits of translating documents for potential LEP groups, the barriers to meaningful translation or interpretation of technical housing information, the likelihood of frequent changes in documents, the existence of multiple dialects within a single language group, the literacy rate in an LEP group and other relevant factors. FH will undertake this examination when an eligible LEP group constitutes 5 percent of an eligible client group (for example, 5 percent of households living in FH housing developments) or 1,000 persons, whichever is less.

As opportunities arise, FH may work with other local Public Housing Authorities (PHAs) to share the costs of translating common documents.

As HUD continues to translate standard housing documents in multiple languages, FH will replace its translated versions with the official HUD versions. FH encourages HUD to provide this service to PHAs and other federally funded agencies whose limited resources hinder their LEP efforts.

FH will consider technological aids such as Internet-based translation services, which may provide helpful, although perhaps not authoritative, translations of written materials.

21.5 AUDIOVISUAL MATERIALS

FH will make reasonable efforts to produce multiple translations of audiovisual materials it uses to inform or educate applicants, participants and other client groups. For example, FH provides headsets or interpreters at community or other meetings.

21.6 INTERPRETERS

Formal Interpreters

To provide meaningful access for LEP clients, FH will use the Language Line Services which provides accurate and complete interpretation in 156 languages. At important stages that require one-on-one contact, written translation and verbal interpretation services will be provided consistent with the four-factor analysis herein.

Outside vendors who are qualified interpreters shall be used at the following:

- Informal hearing(s) for denial of admission to public housing;
- Informal meetings for settlement agreements and formal hearings for termination of public housing;

Informal Interpreters

Informal interpreters may include the family members, friends, legal guardians, service representatives or advocates of the LEP client. FH staff will determine whether it is appropriate to rely on informal interpreters, depending upon the circumstances and subject matter of the communication. However, in many circumstances, informal interpreters, especially minors, may not be an appropriate option to provide accurate interpretations. There may be issues of confidentiality, competency or conflict of interest.

An LEP person may use an informal interpreter of his/her own choosing and at his/her expense, either in place of or as a supplement to the free language assistance offered by the FH. If possible, FH should accommodate an LEP client's request to use an informal interpreter in place of a formal interpreter.

If an LEP client prefers an informal interpreter, after FH has offered free interpreter services, the informal interpreter may interpret. If the LEP person decides to provide his/her own interpreter, the LEP person's election of this choice will be documented. FH may require the family to sign a waiver of their right to the FH-supplied interpreter.

If an LEP client wants to use his/her own informal interpreter, FH reserves the right to also have a formal interpreter present.

21.7 OUTSIDE RESOURCES

Outside resources may include community volunteers, FH public housing residents or Housing Choice Voucher/Section 8 participants.

Outside resources may be used for interpreting services at public or informal meetings or events if a timely request has been made.

FH will establish and maintain relationships with organizations that assist specific cultural and ethnic groups living in Fresno County. To help their clients obtain or keep housing assistance through FH, these organizations may provide qualified interpreters for LEP persons.

21.8 MONITORING

FH will review and revise the LEP Policy (Exhibit 21) annually as part of the Agency Plan process. The review will include:

- Reports from FH's software system on the number of LEP clients, to the extent that the software and staff data entry can provide such information. Such reports may be supplemented by staff observations.
- A determination as to whether 5 percent or 1,000 persons from the FH public housing participants speak a specific language, which triggers consideration of document translation needs as described above.
- Analysis of staff requests for contract interpreters: number of requests, languages requested costs, etc.

21.9 LEP POLICY DISTRIBUTIONS AND TRAINING

The LEP Policy will be:

- Distributed to all FH staff.
- Available at FH's Administrative Office.
- Posted on FH's website at www.fresnohousing.org

- Explained in orientation and training sessions for supervisors and other staff who need to communicate with LEP clients.

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Chapter 22 – Enterprise Income Verification (EIV) Security Policies and Procedures

22.1 PRIVACY PROTECTION POLICY

EIV resident data will be used only to verify a resident's eligibility for participation in the Low-Income Public Housing Program and to determine the level of assistance for which resident is eligible.

22.2 PRIVACY ACT

Data provided via the EIV System will be protected to ensure that information is used only for official purposes and not disclosed in any way that would violate the privacy of the individuals represented in the system data. Privacy of data and data security for computer systems are covered by a verity of Federal laws and regulations. The Privacy Act of 1974 as amended, 5 U.S.C. 552(a) is one such regulation.

Appendix 1 of the FH's EIV Security Policies and Procedures manual is a summary of the safeguards of the Privacy Act.

In compliance with HUD requirements, FH will implement three types of safeguards, technical safeguards, administrative safeguards, and physical safeguards.

22.3 Technical Safeguards

The purpose of the Technical Safeguards is to:

- Reduce the risk of a security violation related to the EIV system's software, network, or applications
- Identify and authenticate all users seeking access to the UIV data
- Monitor the user activity on the EIV system

Description of the Technical Safeguards includes two types of controls built into the EIV system:

User Identification and Authentication:

- Each user is required to have their own User ID and Password;
- The User ID identifies the program administrators and resident information that the user is authorized to access;
- Passwords are encrypted and the password file is protected from unauthorized access;
- The system forces all users to change their password according to HUD security requirements and limits the reuse of previous passwords;
- After three unsuccessful attempts to log in, the User ID is locked and the user has to contact the PIH Security Administrator or the PIH User Administrator for further instructions.

Online User Alerts:

- Online Warning messages that inform user of the civil and criminal penalties associated with unauthorized use of the UIV data.

22.4 Physical Safeguards

The purpose of Physical Safeguards is to:

- Provide barriers between unauthorized persons and documents containing private data and computer media containing files that contain private data;
- Provide immediate notification, noticeable under normal operating conditions, if the barrier is penetrated by unauthorized persons;
- Prevent viewing or sensing of private information by any person by any means from outside the area confined by the barrier.

Physical Safeguards:

- Locked and monitored buildings, offices, or storage rooms;
- Locked and monitored metal file cabinets;
- Designated secure areas and equipment;
- Security rooms or locked office space with limited (minimum required) points of entry (e.g., doors)
- Security rooms or locked office space with limited (minimum required) means of entry (e.g., keys)
- Restricted areas with prominently posted signs or other indicators identifying them and limited points of entry
- Physical and administrative means for monitoring access to the secure areas and access and use of the protected data
- Restricted use printers, copiers, facsimile machines, etc.
- Secure computer systems and output
- Retrieve all computer printouts as soon as they are generated so that UIV data is not left lying unattended in printers;
- Avoid leaving a computer unattended with UIV data displayed on the screen;
- Staff is prohibited from downloading UIV data information into computer or a CD.
- Secure disposal of UIV information
- It is the FH's policy and procedures to shred all UIV information upon purging resident file.

22.5 Administrative Safeguards

Purposes of the administrative safeguards:

- Ensure all users who have access to EIV data have an Access Authorization form signed by the Executive Director of the Fresno Housing on File.

- Ensure all users who access the EIV system have a current signed Rules of Behavior and User Agreement on file and updated annually.
- Conduct quarterly reviews of all User IDs to determine if the user still has a valid need to access the EIV data, and
- Ensure the access rights are modified or revoked as appropriate.

The PIH Security Administrator and the PIH User Administrator will maintain the following security records and forms:

- EIV Rules of Behavior and User Agreement forms
- EIV Access Authorization Forms
- EIV Disposal records list
- EIV Security violation information
- Key control logs for secure areas or filing cabinets
- EIV Security Awareness Training records
- Records of internal audits to ensure that the Form HUD-9886 has been signed by each adult member of the household and is kept in the Confidential Resident File.
- A record of all users who have approved access to EIV data including the date the access was granted and the date access was terminated
- Monitor User Session and Activity Report
- Monitor the Resident Data Access Audit Report

Conducting Security Awareness Training:

- Ensure that all users of UIV data receive training in UIV security policies and procedures at the time of employment and at least annually afterwards;
- Maintain a record of all personnel who have attended training sessions;
- Communicate security information and requirements to appropriate personnel using various methods including discussions at group and managerial meetings and security bulletins posted throughout the work areas;
- Distribute all User Guides and Security Procedures to personnel using UIV data.

22.6 REPORTING OF IMPROPER DISCLOSURES

These security violations may include the disclosure of private data as well as attempts to access unauthorized data and the sharing of User IDs and passwords. Upon the discovery of a possible improper disclosure of UIV information or another security violation by a program administrator employee or any other person, the individual making the observation or receiving the information should contact the PIH Security Administrator or the PIH User Administrator. The Security

Administrator or the User Administrator or designated staff should document all improper disclosures in writing providing details including who was involved, what was disclosed, how the disclosure occurred, and where and when it occurred regardless if the security violation was intentional or unintentional.

The following contacts should be made:

- The program administrator security officer should contact and provide the FH's Executive Director or the designee with the written documentation; and
- The FH Executive Director or the designee should provide the HUD Field Office Public Housing Director with the written documentation.

22.7 ENFORCEMENT

Any employee found to have violated this policy may be subject to disciplinary action, up to and including termination of employment.

Appendix 1. Safeguards Provided by the Privacy Act

The Privacy Act provides safeguards for individuals against invasion of privacy by requiring Federal agencies, except as otherwise provided by the law or regulation to:

- Permit individuals to know what records pertaining to them are collected, maintained, used or disseminated;
- Allow individuals to prevent records pertaining to them, obtained for a particular purpose from being used or made available for another purpose without their consent;
- Permit individuals to gain access to information pertaining to them, obtain a copy of all or any portions thereof, and correct or amend such records;
- Collect, maintain, use or disseminate personally identifiable information in a manner that ensure the information is current and accurate, and that adequate safeguards are provided to prevent misuses of such information;
- Permit exemption from the requirements of the Act only where an important public policy need exists as determined by specific statutory authority; and
- Be subject to a civil suit for any damages that occur as a result of action that violates any individual's rights under this Act.

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CHAPTER 23 – SMOKE-FREE POLICY

23.1 INTRODUCTION

In order to create healthy communities and provide a smoke-free environment for all public housing residents, visitors, and FH staff, FH has declared that all public housing communities have a Smoke-Free Policy (Exhibit 23.1).

In accordance with PIH Notice-2012-reissuance 24 CFR 965 Subpart G smoking (including, but not limited to, smoking cigarettes, cigars, pipe, e-cigarettes, and water pipes; also known as hookahs) is prohibited in all FH public housing communities, additionally the City of Fresno passed Ordinance No. 2021-045 prohibiting smoking in all unit residences in Fresno, effective January 1, 2022.

This includes all indoor areas including but not limited to residential units, offices, community buildings, day care centers, laundry centers and common areas; and within twenty-five (25) feet of said buildings and outdoor areas (apartments, entryways, walkways, grassed areas, play areas, parking lots and private vehicles parked on FH property). Per California Law an apartment complex that includes a children's play area or "tot lot" sandbox area, the landlord must prohibit smoking within 25 feet under state law.

Smoking outside is limited to the following areas: designated smoking area, public areas, sidewalks and streets.

The term "smoking" is defined as inhaling, exhaling, burning, or carrying any lit cigar, cigarette, pipe, visible vapor or other similar prohibited tobacco products, including in any manner or any form. Prohibited tobacco products include, but are not limited to: e- cigarettes in any manner or in any forms, water pipes or hookahs.

The Smoke Free Policy applies to all visitors, residents, contractors, volunteers, vendors, and FH employees. Residents and members of the household shall be responsible to enforce this Smoke Free Policy as to their guests, invitees, and visitors to their residential units or the property.

23.2 RESPONSIBILITIES

It is the responsibility of the FH staff to educate residents and visitors of the No Smoking Policy. Printed material will be available for visitors at the property office. FH has posted signage that reads "No Smoking Allowed except in designated area" and the designed smoking area will be clearly marked.

All public housing residents and their guest, invitees, and visitors are expected to:

- Comply with the Resident Lease Agreement or applicable addenda and House Rules.
- Not smoke in any resident unit, Housing Authority offices, and within twenty-five (25) feet of any community buildings, play areas, doors and windows at said premises.
- Not cause or permit a nuisance.
- Not interfere, or cause or permit interference with, the reasonable peace, comfort or privacy of others.

- Be responsible for behavior and conduct of their occupants and/or visitors to their unit and ensure their compliance with FH designated tobacco-free units and common areas.

23.3 Violations

A violation of the Smoke Free Policy will be considered a material violation of the residential lease. FH will utilize the following process to address the violations of the Smoke-Free Policy:

1st Violation- Verbal warning. FH may provide smoking cessation materials and a friendly warning letter acknowledging the conversation.

2nd Violation- A written letter of warning will be given, and FH may provide smoking cessation materials.

3rd Violation- A final written violation letter will be served upon the resident, but resident will be given the option to remedy.

4th Violation- A 30-day lease termination Notice to Terminate Tenancy will be issued.

23.4 Cessation Resources

All residents will be offered information regarding cessation programs and provided with access tools to assist them in quitting tobacco use, if they so choose.

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EXHIBITS

- EXHIBIT 2-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER FEDERAL CIVIL RIGHTS LAWS [24 CFR PARTS 8.3 AND 100.201]
- EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES
- EXHIBIT 6-1: ANNUAL INCOME INCLUSIONS
- EXHIBIT 6-2: ANNUAL INCOME EXCLUSIONS
- EXHIBIT 6-3: TREATMENT OF FAMILY ASSETS
- EXHIBIT 6-4: THE EFFECT OF WELFARE BENEFIT REDUCTION
- EXHIBIT 7-1: EXCERPT FROM HUD VERIFICATION GUIDANCE NOTICE (PIH 2004-01, PP. 11-14)
- EXHIBIT 7-2: SUMMARY OF DOCUMENTATION REQUIREMENTS FOR NONCITIZENS [HCV GB, PP. 5-9 AND 5-10)
- EXHIBIT 11-1: COMMUNITY SERVICE AND SELF-SUFFICIENCY POLICY
- EXHIBIT 11-2: DEFINITION OF A PERSON WITH A DISABILITY UNDER SOCIAL SECURITY ACTS 216(I)(L) AND SECTION 1416(EXCERPT) FOR PURPOSES OF EXEMPTION FROM COMMUNITY SERVICE
- EXHIBIT 11-3: PHA DETERMINATION OF EXEMPTION FOR COMMUNITY SERVICE EXHIBIT 11-4: CSSR WORKOUT AGREEMENT
- EXHIBIT 16-1: HUD-5380 NOTICE OF OCCUPANCY RIGHTS UNDER THE VIOLENCE AGAINST WOMEN ACT (VAWA)
- EXHIBIT 16-2: HUD-5382, CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSULT, STALKING, OR HUMAN TRAFFICKING, AND ALTERNATIVE DOCUMENTATION
- EXHIBIT 16-3: HUD-5381, MODEL EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING, OR HUMAN TRAFFICKING.
- EXHIBIT 16-4: EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSULT, STALKING, OR HUMAN TRAFFICKING
- EXHIBIT 16-5: FH VAWA POLICY
- EXHIBIT 21.1: LANGUAGE ASSISTANCE PLAN

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

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

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

The phrase "physical or mental impairment" includes:

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

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

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

"Is regarded as having an impairment" means:

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

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

(3) Has none of the impairments defined in paragraph (a) of this definition but is treated by another person as having such an 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 $550 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.

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:
  (1) The term "disability" means -
    (A) Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death, or which has lasted or can be expected to last for a continuous period of not less than 12 months; or
    (B) 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:
    - IN GENERAL – The term developmental disability means a severe, chronic disability of an individual that:
  - Is attributable to a mental or physical impairment or combination of mental and physical impairments.
  - Is manifested before the individual attains age 22;
  - Is likely to continue indefinitely.
  - Results in substantial functional limitations in 3 or more of the following areas of major life activity:
    - self-care,
    - receptive and expressive language,
    - learning,
    - mobility,
    - self-direction,
    - capacity for independent living,
    - economic self-sufficiency; and
    - 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.

- 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 handicap 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 performing the duties of the job in question, or whose employment, by reason of current alcohol or drug abuse, would constitute a direct threat to property or the safety of others; or any individual who has a currently contagious disease or infection and who, by reason of such disease or infection, would constitute a direct threat to the health or safety of other individuals or who, by reason of the currently contagious disease or infection, is unable to perform the duties of the job. For purposes of other programs and activities, 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:
- 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:
- Physical or mental impairment includes:
    - Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive;

Genito-urinary; hemic and lymphatic; skin; and endocrine or

- 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 mean functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

- 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.
- Is regarded as having an impairment means:
    - 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
    - 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
    - Has none of the impairments defined in paragraph (a) of this section but is treated by a recipient as having such an impairment

EXHIBIT 6-1: ANNUAL INCOME INCLUSIONS

24 CFR 5.609

Earned income by or on behalf of each dependent who is under 18 years of age, an

(2) When the value of net family assets exceeds $ $52,787 (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and the actual returns from a given asset cannot be calculated, imputed returns on the asset based on the current passbook savings rate, as determined by HUD.

(b) Annual income does not include the following:

(1) Any imputed return on an asset when net family assets total $ $52,787 or less (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and no actual income from the net family assets can be determined.

(2) The following types of trust distributions:

(i) For an irrevocable trust or a revocable trust outside the control of the family or household excluded from the definition of net family assets under § 5.603(b):

(A) Distributions of the principal or corpus of the trust; and

(B) Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.

(ii) For a revocable trust under the control of the family or household, any distributions from the trust; except that any actual income earned by the trust, regardless of whether it is distributed, shall be considered income to the family at the time it is received by the trust.

(3) Earned income of children under the 18 years of age.

(4) Payments received for the care of foster children or foster adults, or State or Tribal kinship or guardianship care payments.

(5) Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation.

(6) Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member.

(7) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled.

(8) Income of a live-in aide, foster child, or foster adult as defined in §§ 5.403 and 5.603, respectively.

(i) Any assistance that section 479B of the Higher Education Act of 1965, as amended (20 U.S.C. 1087uu), requires be excluded from a family's income; and

(ii) Student financial assistance for tuition, books, and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and other fees required and charged to a student by an institution of higher education (as defined under Section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

(A) Student financial assistance, for purposes of this paragraph (9)(ii), means a grant or scholarship received from—

(1) The Federal government;

(2) A State, Tribe, or local government;

(3) A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);

(4) A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or

(5) An institution of higher education.

(B) Student financial assistance, for purposes of this paragraph (9)(ii), does not include—

(1) Any assistance that is excluded pursuant to paragraph (b)(9)(i) of this section;

(2) Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded pursuant to paragraph (b)(9)(i) of this section);

(3) Gifts, including gifts from family or friends; or

(4) Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under this paragraph or paragraph (b)(9)(i), exceeds the actual covered costs of the student. The actual covered costs of the student are the actual

costs of tuition, books and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, or other fees required and charged to a student by the education institution, and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit. This calculation is described further in paragraph (b)(9)(ii)(E) of this section.

(C) Student financial assistance, for purposes of this paragraph (b)(9)(ii) must be:

(1) Expressly for tuition, books, room and board, or other fees required and charged to a student by the education institution;

(2) Expressly to assist a student with the costs of higher education; or

(3) Expressly to assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the education institution and not residing in an assisted unit.

(D) Student financial assistance, for purposes of this paragraph (b)(9)(ii), may be paid directly to the student or to the educational institution on the student's behalf. Student financial assistance paid to the student must be verified by the responsible entity as student financial assistance consistent with this paragraph (b)(9)(ii).

(E) When the student is also receiving assistance excluded under paragraph (b)(9)(i) of this section, the amount of student financial assistance under this paragraph (b)(9)(ii) is determined as follows:

(1) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is equal to or exceeds the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, none of the assistance described in this paragraph (b)(9)(ii) of this section is considered student financial assistance excluded from income under this paragraph (b)(9)(ii)(E).

(2) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is less than the actual covered costs under paragraph (b)

(9)(ii)(B)(4) of this section, the amount of assistance described in paragraph (b)(9)(ii) of this section that is considered student financial assistance excluded under this paragraph is the lower of:

(i) the total amount of student financial assistance received under this paragraph (b)(9)(ii) of this section, or

(ii) the amount by which the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section exceeds the assistance excluded under paragraph (b)(9)(i) of this section.

(10) Income and distributions from any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by Federal, State, or local government.

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

(12) (i) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

(ii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;

(iii) Amounts received under a resident service stipend not to exceed $200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development.

(iv) Incremental earnings and benefits resulting to any family member from participation in training programs funded by HUD or in qualifying Federal, State, Tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the employment training program unless those amounts are excluded under paragraph (b)(9)(i) of this section.

(13) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era.

(14) Earned income of dependent full-time students in excess of the amount of the deduction for a dependent in § 5.611.

(15) Adoption assistance payments for a child in excess of the amount of the deduction for a dependent in § 5.611.

(16) Deferred periodic amounts from Supplemental Security Income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts.

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

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

(19) Payments made by or authorized by a State Medicaid agency (including through a managed care entity) or other State or Federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit. Authorized payments may include payments to a member of the assisted family through the State Medicaid agency (including through a managed care entity) or other State or Federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family's assisted unit.

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

(21) Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other Federal law.

(22) Amounts that HUD is required by Federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in paragraph (b) of this section apply. HUD will publish a notice in the FEDERAL REGISTER to identify the benefits that qualify for this exclusion. Updates will be published when necessary.

(23) Replacement housing "gap" payments made in accordance with 49 CFR part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another Federally subsidized housing unit. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments.

(24) Nonrecurring income, which is income that will not be repeated in the coming year based on information provided by the family. Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under this paragraph, even if the source, date, or amount of the income varies. Nonrecurring income includes:

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

(ii) Direct Federal or State payments intended for economic stimulus or recovery.

(iii) Amounts directly received by the family as a result of State refundable tax credits or State tax refunds at the time they are received.

(iv) Amounts directly received by the family as a result of Federal refundable tax credits and Federal tax refunds at the time they are received.

(v) Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries).

(vi) Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.

(vii) Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings.

(25) Civil rights settlements or judgments, including settlements or judgments for back pay.

(26) Income received from any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; except that any distribution of periodic payments from such accounts shall be income at the time they are received by the family.

(27) Income earned on amounts placed in a family's Family Self Sufficiency Account.

(28) Gross income a family member receives through self-employment or operation of a business; except that the following shall be considered income to a family member:

(i) Net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations; and

(ii) Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.

(c) Calculation of Income. The PHA or owner must calculate family income as follows:

(1) Initial occupancy or assistance and interim reexaminations. The PHA or owner must estimate the income of the family for the upcoming 12-month period:

(i) To determine family income for initial occupancy or for the initial provision of housing assistance; or

(ii) To determine family income for an interim reexamination of family income under §§ 5.657(c), 960.257(b), or 982.516(c) of this title.

(2) Annual Reexaminations.

(i) The PHA or owner must determine the income of the family for the previous 12-month period and use this amount as the family income for annual reexaminations, except where the PHA or owner uses a streamlined income determination under §§ 5.657(d), 960.257(c), or 982.516(b) of this title.

(ii) In determining the income of the family for the previous 12-month period, the PHA or owner must take into consideration any redetermination of income during the previous 12-month period resulting from an interim reexamination of family income under §§ 5.657(c), 960.257(b), or 982.516(c) of this title.

(iii) The PHA or owner must make adjustments to reflect current income if there was a change in income during the previous 12-month period that was not accounted for in a redetermination of income.

(3) Use of other programs' determination of income.

(i) The PHA or owner may, using the verification methods in paragraph (c)(3)(ii) of this section, determine the family's income prior to the application of any deductions applied in accordance with § 5.611 based on income determinations made within the previous 12-month period for purposes of the following means-tested forms of Federal public assistance:

(A) The Temporary Assistance for Needy Families block grant (42 U.S.C. 601, et seq.).

(B) Medicaid (42 U.S.C. 1396 et seq.).

(C) The Supplemental Nutrition Assistance Program (42 U.S.C. 2011 et seq.).

(D) The Earned Income Tax Credit (26 U.S.C. 32).

(E) The Low-Income Housing Credit (26 U.S.C. 42).

(F) The Special Supplemental Nutrition Program for Woman, Infants, and Children (42 U.S.C.1786).

(G) Supplemental Security Income (42 U.S.C. 1381 et seq.).

(H) Other programs administered by the Secretary.

(I) Other means-tested forms of Federal public assistance for which HUD has established a memorandum of understanding.

(J) Other Federal benefit determinations made in other forms of means-tested Federal public assistance that the Secretary determines to have comparable reliability and announces through the FEDERAL REGISTER.

(ii) If a PHA or owner intends to use the annual income determination made by an administrator for allowable forms of Federal means-tested public assistance under this paragraph (c)(3), the PHA or owner must obtain it using the appropriate third-party verification. If the appropriate third-party verification is unavailable, or if the family disputes the determination made for purposes of the other form of Federal means-tested public assistance, the PHA or owner must calculate annual income in accordance with 24 CFR part 5, subpart F. The verification must indicate the tenant's family size and composition and state the amount of the family's annual income. The verification must also meet all HUD requirements related to the length of time that is permitted before the third-party verification is considered out-of-date and is no longer an eligible source of income verification.

(4) De minimis errors. The PHA or owner will not be considered out of compliance with the requirements in this paragraph (c) solely due to de minimis errors in calculating family income. A de minimis error is an error where the PHA or owner determination of family income deviates from the correct income determination by no more than $30 per month in monthly adjusted income ($360 in annual adjusted income) per family.

(i) The PHA or owner must still take any corrective action necessary to credit or repay a family if the family has been overcharged for their rent or family share as a result of the de minimis error in the income determination, but families will not be required to repay the PHA or owner in instances where a PHA or owner has miscalculated income resulting in a family being undercharged for rent or family share.

(ii) HUD may revise the amount of de minimis error in this paragraph (c)(4) through a rulemaking published in the FEDERAL REGISTER for public comment.

a) Annual income means all amounts, monetary or not, which:

   1. Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
   2. Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
   3. Which are not specifically excluded in paragraph (c) of this section.
   4. Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

b) Annual income includes, but is not limited to:

   - The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services.
   - 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 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 $50,000, 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.
   - 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.

   1. 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);
   2. 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);

3. Welfare assistance payments.
    i. Welfare assistance payments made under the Temporary Assistance for Needy Families (CALWORKS) program are included in annual income only to the extent such payments:
        a) Qualify as assistance under the CALWORKS program definition at 45 CFR 260.311; and
        b) Are not otherwise excluded under paragraph (c) of this section.
            1. If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:
                i. The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus
                ii. 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.

- 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.

7. All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section)
8. 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: 260.31**

General Temporary Assistance for Needy Families

What does the term assistance mean?

he 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).

1. It includes such benefits even when they are:
    - Provided in the form of payments by a TANF agency, or other agency on its behalf, to

individual recipients; and

a. Conditioned on participation in work experience or community service (or any other work activity under 261.30 of this chapter).

- Except where excluded under paragraph (b) of this section, it also includes supportive services such as transportation and childcare provided to families who are not employed.

b) The definition of assistance excludes:

1. Nonrecurring, short-term benefits that:
    a. Are designed to deal with a specific crisis situation or episode of need;
    b. Are not intended to meet recurrent or ongoing needs; and
    c. Will not extend beyond four months.
2. Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);
3. Supportive services such as child care and transportation provided to families who are employed;
4. Refundable earned income tax credits;
5. Contributions to, and distributions from, Individual Development Accounts;
6. Services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and

- 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.
- (c) The definition of the term assistance specified in paragraphs (a) and (b) of this section:
    - (1) Does not apply to the use of the term assistance at part 263, subpart A, or at part 264, subpart B, of this chapter; and
    - (2) Does not preclude a State from providing other types of benefits and services in support of the TANF goal at § 260.20(a).

EXHIBIT 6-2: ANNUAL INCOME EXCLUSIONS

24 CFR 5.609

a) Annual income does not include the following:

   1. Income from employment of children (including foster children) under the age of 18 years;
   2. Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);
   3. Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);
   4. Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
   5. Income of a live-in aide, as defined in Sec. 5.403;
   6. Subject to paragraph (b)(9) of this section, the full amount of student financial assistance paid directly to the student or to the educational institution;
   7. The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;

   - Amounts received under training programs funded by HUD; (e.g. Training received under Section 3)

     a) 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);

     b) 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;

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

     d) 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;

8. Temporary, nonrecurring or sporadic income (including gifts);
9. Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;
10. Earnings in excess of $480 for each full- time student 18 years old or older (excluding the head of household and spouse);
11. Adoption assistance payments in excess of $480 per adopted child;
12. [Reserved]
13. Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in 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 PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary. [See the following chart for a list of benefits that qualify for this exclusion.]

The following is a list of income source that qualify for that exclusion:

a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b));

b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058);

(employment through AmeriCorps, Volunteers in Service to America [VISTA], Retired Senior Volunteer Program, Foster Grandparents Program, youthful offender incarceration alternatives, senior companions);

c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));

d) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);

e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));

f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b); (effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931); e.g., employment and training programs for Native Americans and migrant and seasonal farm workers, Job Corps, veterans employment programs, state job training programs, career intern programs, AmeriCorps);

g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub.L- 94-540, 90 Stat. 2503- 04);

h) The first $2000 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 $2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408);

i) Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu);

j) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f)); e.g., Green Thumb, Senior Aides, Older American Community Service Employment Program;

k) 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-product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

l) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721);

m) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q);

n) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j));

o) 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);

p) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));

q) Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spinabifida who is the child of a Vietnam veteran (38 U.S.C. 1805);

r) 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); and

s) Allowances, earnings and payments to individuals participating in programs under the

Workforce Investment Act of 1998 (29 U.S.C. 2931).

EXHIBIT 6-3: TREATMENT OF FAMILY ASSETS

24 CFR 5.603 (3)(ix) Net Family Assets

1.

(ix) Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982;

(x) Family Self-Sufficiency Accounts; and

(xi) Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family.

(4) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the trust fund is not a family asset and the value of the trust is not included in the calculation of net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household.

Owner has the meaning provided in the relevant program regulations. As used in this subpart, where appropriate, the term “owner” shall also include a “borrower” as defined in part 891 of this title.

Responsible entity. For § 5.611, in addition to the definition of “responsible entity” in § 5.100, “responsible entity” means:

(1) For the Section 202 Supportive Housing Program for the Elderly, the “Owner” as defined in 24 CFR 891.205;

(2) For the Section 202 Direct Loans for Housing for the Elderly and Persons with Disabilities, the “Borrower” as defined in 24 CFR 891.505; and

(3) For the Section 811 Supportive Housing Program for Persons with Disabilities, the “Owner” as defined in 24 CFR 891.305.

Seasonal worker. An individual who is hired into a short-term position and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry.

Tenant rent. The amount payable monthly by the family as rent to the unit owner (Section 8 owner or PHA in public housing). (This term is not used in the Section 8 voucher program.)

Total tenant payment. See § 5.628.

Utility allowance. If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

Utility reimbursement. The amount, if any, by which the utility allowance for a unit, if applicable, exceeds the total tenant payment for the family occupying the unit. (This definition is not used in the Section 8 voucher program, or for a public housing family that is paying a flat rent.)

Very low-income family. A family whose annual income does not exceed 50 percent of the median family income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 50 percent of the median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

EXHIBIT 6-5: THE EFFECT OF WELFARE BENEFIT REDUCTION

24 CFR 5.615

Public Housing Program and Section 8 tenant-based assistance program. How welfare benefit reduction affects family income:

a) Applicability. This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

b) Definitions. The following definitions apply for purposes of this section:

   Covered families. Families who receive welfare assistance or other public assistance benefits ("welfare benefits'') from a State or other public agency ("welfare agency'') under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

   Economic self-sufficiency program. See definition at Sec. 5.603.

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

   Specified welfare benefit reduction.

   1. A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.
   2. Specified welfare benefit reduction does not include a reduction or termination of welfare benefits by the welfare agency:
      a. At expiration of a lifetime or other time limit on the payment of welfare benefits;
      b. because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or
      c. because a family member has not complied with other welfare agency requirements.

c) Imputed welfare income.

   1. A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to the PHA by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.
   2. At the request of the PHA, the welfare agency will inform the PHA in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform the PHA of any subsequent changes in the term or amount of such specified welfare benefit reduction. The PHA will use this information to determine the amount of imputed welfare income for a family.

3. A family's annual income includes imputed welfare income in family annual income, as determined at the PHA's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the PHA by the welfare agency).

4. The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed welfare income, the imputed welfare income is reduced to zero.
5. The PHA may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

d) Review of PHA decision.

1. Public housing. If a public housing tenant claims that the PHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the tenant written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. The PHA notice shall also state that if the tenant does not agree with the PHA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the PHA determination. The tenant is not required to pay an escrow deposit pursuant to Sec. 966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on the PHA determination.
2. Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the PHA determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the family written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the PHA determination, the family may request an informal hearing on the determination under the PHA hearing procedure.

e) PHA relation with welfare agency.

1. The PHA must ask welfare agencies to inform the PHA of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the PHA written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.
2. The PHA is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to the PHA. However, the PHA is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.
3. Such welfare agency determinations are the responsibility of the welfare agency, and the family

may seek appeal of such determinations through the welfare agency's normal due process procedures. The PHA shall be entitled to rely on the welfare agency notice to the PHA of the welfare agency's determination of a specified welfare benefits reduction.

EXHIBIT 7-1: EXCERPT FROM HUD VERIFICATION GUIDANCE NOTICE

(PIH 2004-01, pp. 11- 14)

Upfront (UIV)	**Highest (Highly Recommended, highest level of third party verification)**
Written 3rd Party	**High (Mandatory if upfront income verification is not available or if UIV data differs substantially from tenant-reported information)**
Oral 3rd Party	**Medium (Mandatory if written third party verification is not available)**
Document Review	**Medium-Low (Use on provisional basis)**
Tenant Declaration	**Low (Use as a last resort)**

Income Type	**Upfront**	**Written Third Party**	**Oral Third Party**	**Document Review**	**Tenant Declaration**
	(LEVEL 5)	**(LEVEL 4)**	**(LEVEL 3)**	**(LEVEL 2)**	**(LEVEL 1)**
Wages/Salaries	Use of computer matching agreements with a State Wage Information Collection Agency (SWICA) to obtain wage information electronically, by mail or fax or in person. Agreements with private vendor agencies, such as The Work Number or ChoicePoint to obtain wage and salary information. Use of HUD systems, when available.	The PHA mails, faxes, or e-mails a verification form directly to the independent sources to obtain wage information. The PHA may have the tenant sign a Request for Earnings Statement from the SSA to confirm past earnings. The PHA mails the form to SSA and the statement will be sent to the address the PHA specifies on the form.	In the event the independent source does not respond to the PHA's written request for information, the PHA may contact the independent source by phone or make an in person visit to obtain the requested information.	When neither form of third party verification can be obtained, the PHA may accept original documents such as consecutive pay stubs (HUD recommends the PHA review at least three months of pay stubs, if employed by the same employer for three months or more), W-2 forms, etc. from the tenant. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares the family's total annual income from earnings. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.

Verification of Employment Income: The PHA should always obtain as much information as possible about the employment, such as start date (new employment), termination date (previous employment), pay frequency, pay rate, anticipated pay increases in the next twelve months, year-to-date earnings, bonuses, overtime, company name, address and telephone number, name and position of the person completing the employment verification form.
Effective Date of Employment: The PHA should always confirm start and termination dates of employment.

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	**(LEVEL 4)**	**(LEVEL 3)**	**(LEVEL 2)**	**(LEVEL 1)**
Self-Employment	Not Available	The PHA mails or faxes a verification form directly to sources identified by the family to obtain income information.	The PHA may call the source to obtain income information.	The PHA may accept any documents (i.e. tax returns, invoices and letters from customers) provided by the tenant to verify self-employment income. **Note:** The PHA must document in the tenant file, the reason third party verification was not obtained.	The PHA may accept a notarized statement or affidavit from the tenant that declares the family's total annual income from self-employment. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.
Verification of Self-Employment Income: Typically, it is a challenge for PHAs to obtain third party verification of self-employment income. When third party verification is not available, the PHA should always request a notarized tenant declaration that includes a perjury statement.					
Social Security Benefits	Use of HUD Tenant Assessment System (TASS) to obtain current benefit history and discrepancy reports.	The PHA mails or faxes a verification form directly to the local SSA office to obtain social security benefit information. **(Not Available in some areas because SSA makes this data available through TASS. SSA encourages PHAs to use TASS.)**	The PHA may call SSA, with the tenant on the line, to obtain current benefit amount. **(Not Available in some areas because SSA makes this data available through TASS. SSA encourages PHAs to use TASS.)**	The PHA may accept an original SSA Notice from the tenant. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares monthly social security benefits. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.
Welfare Benefits	Use of computer matching agreements with the local Social Services Agency to obtain current benefit amount electronically, by mail or fax or in person.	The PHA mails, faxes, or e-mails a verification form directly to the local Social Services Agency to obtain welfare benefit information.	The PHA may call the local Social Services Agency to obtain current benefit amount.	The PHA may review an original award notice or printout from the local Social Services Agency provided by the tenant. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares monthly welfare benefits. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	**(LEVEL 4)**	**(LEVEL 3)**	**(LEVEL 2)**	**(LEVEL 1)**
Child Support	Use of agreement with the local Child Support Enforcement Agency to obtain current child support amount and payment status electronically, by mail or fax or in person.	The PHA mails, faxes, or e-mails a verification form directly to the local Child Support Enforcement Agency or child support payer to obtain current child support amount and payment status.	The PHA may call the local Child Support Enforcement Agency or child support payer to obtain current child support amount and payment status.	The PHA may review an original court order, notice or printout from the local Child Support Enforcement Agency provided by the tenant to verify current child support amount and payment status. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares current child support amount and payment status. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.
Unemployment Benefits	Use of computer matching agreements with a State Wage Information Collection Agency to obtain unemployment compensation electronically, by mail or fax or in person. Use of HUD systems, when available.	The PHA mails, faxes, or e-mails a verification form directly to the State Wage Information Collection Agency to obtain unemployment compensation information.	The PHA may call the State Wage Information Collection Agency to obtain current benefit amount.	The PHA may review an original benefit notice or unemployment check stub, or printout from the local State Wage Information Collection Agency provided by the tenant. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares unemployment benefits. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.
Pensions	Use of computer matching agreements with a Federal, State, or Local Government Agency to obtain pension information electronically, by mail or fax or in person.	The PHA mails, faxes, or e-mails a verification form directly to the pension provider to obtain pension information.	The PHA may call the pension provider to obtain current benefit amount.	The PHA may review an original benefit notice from the pension provider provided by the tenant. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares monthly pension amounts. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	(LEVEL 4)	(LEVEL 3)	(LEVEL 2)	(LEVEL 1)
Assets	Use of cooperative agreements with sources to obtain asset and asset income information electronically, by mail or fax or in person.	The PHA mails, faxes, or emails a verification form directly to the source to obtain asset and asset income information.	The PHA may call the source to obtain asset and asset income information.	The PHA may review original documents provided by the tenant. **Note: The PHA must document in the tenant file, the reason third party verification was not available.**	The PHA may accept a notarized statement or affidavit from the tenant that declares assets and asset income. **Note: The PHA must document in the tenant file, the reason third party verification was not available.**
Comments	Whenever HUD makes available wage, unemployment, and SSA information, the PHA should use the information as part of the reexamination process. Failure to do so may result in disallowed costs during a RIM review.	**Note:** The independent source completes the form and returns the form directly to the PHA. Agency. The tenant should not hand carry documents to or from the independent source.	The PHA should document in the tenant file, the date and time of the telephone call or in person visit, along with the name and title of the person that verified the current income amount.		The PHA should use this verification method as a last resort, when all other verification methods are not possible or have been unsuccessful. **Notarized statement should include a perjury penalty statement.**

Note: The PHA must not pass verification costs along to the participant.

Note: In cases where the PHA cannot reliably project annual income, the PHA may elect to complete regular interim reexaminations (this policy should be apart of the PHA's written policies.)

EXHIBIT 7-2: 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 PHA.

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

1. Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.
2. Form I-551 Alien Registration Receipt Card (for permanent resident aliens)
3. Form I-94 Arrival-Departure Record annotated with one of the following:
4. "Admitted as a Refugee Pursuant to Section 207"
5. "Section 208" or "Asylum"
6. "Section 243(h)" or "Deportation stayed by Attorney General"
7. "Paroled Pursuant to Section 221 (d)(5) of the USCIS"
8. Form I-94 Arrival-Departure Record with no annotation accompanied by:
9. A final court decision granting asylum (but only if no appeal is taken);
10. 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);
11. A court decision granting withholding of deportation; or
12. A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).
13. Form I-766 Temporary Resident Card annotated "Section 245A" or Section 210". *Note: October 1, 2016, USCIS eliminated use of I-688, I-688A, and I-688B
14. Form I-766* Employment Authorization Card annotated "Provision of Law 274a. 12(11)" or "Provision of Law 274a.12".
15. A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant's entitlement to the document has been verified; or
16. Other acceptable evidence. If other documents are determined by the USCIS to constitute

acceptable evidence of eligible immigration status, they will be announced by notice published in the Federal Register.

EXHIBIT 11-1: COMMUNITY SERVICE AND SELF-SUFFICIENCY POLICY

A) Background

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

B) Definitions

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

Local public or nonprofit institutions such as schools, head start programs, before or after school programs, child care centers, hospitals, clinics, hospices, nursing homes, recreation centers, senior centers, adult day care programs, homeless shelters, feeding programs, food banks (distributing either donated or commodity foods), or clothes closets (distributing donated clothing).

- Nonprofit organizations serving FH residents or their children such as: Boy or Girl Scouts, Boys or Girls Club, 4-H clubs, Police Assistance League (PAL), organized children's recreation, mentoring or education programs, Big Brothers or Big Sisters, garden centers, community clean-up programs, beautification programs.
- Programs funded under the Older Americans Act, such as Green Thumb, Service Corps of Retired Executives, senior meals programs, senior centers, Meals on Wheels.
- Public or nonprofit organizations dedicated to seniors, youth, children, residents, citizens, special-needs populations or with missions to enhance the environment, historic resources, cultural identities, neighborhoods, or performing arts.
- PHA housing to improve grounds or provide gardens (so long as such work does not alter the PHA's insurance coverage); or work through resident organizations to help other residents with problems, including serving on the Resident Advisory Board.
- Care for the children of other residents so parent may volunteer.

NOTE: Political activity is excluded.

Self-Sufficiency Activities – activities that include, but are not limited to:

Job readiness or job training.

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

- Apprenticeships (formal or informal).
- English proficiency or English as a second language classes.
- Budgeting and credit counseling.

  Any activity required by the Department of Public Assistance under.

Temporary Assistance for Needy Families (CALWORKS).

Any other program necessary to ready a participant to work (such as substance abuse or mental health counseling).

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

Is 62 years of age or older.

- Is blind or a person with disabilities (as defined under section 216[i][l] or 1614 of the Social Security Act), and who certifies that because of this disability he or she is unable to comply with the service provisions, or is the primary caretaker of such an individuals.
- Is engaged in work activities.
- Is able to meet requirements under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program; or
- Is a member of a family receiving assistance, benefits, or services under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program, and has not been found by the state or other administering entity to be in noncompliance with such program.
- Is a member of a non-public housing over-income family. PHAs can use reasonable guidelines in clarifying the work activities in coordination with TANF, as appropriate.

Work Activities – as it relates to an exemption from the community service requirement, work activities 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 a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate.
- Provision of child care services to an individual who is participating in a community service program.

C) Requirements of the Program

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

D) Authority Obligation

1. To the greatest extent possible and practicable, the FH will:
   - Provide names and contacts at agencies that can provide opportunities for residents, including residents with disabilities, to fulfill their community service obligations.
   - Provide in-house opportunities for volunteer work or self-sufficiency activities.
2. FH will provide the family with a copy of this policy, and all applicable exemption verification forms and community service documentation forms, at lease-up, lease renewal, when a family member becomes subject to the community service requirement during the lease term, and at any time upon the family's request.
3. Although exempt family members will be required to submit documentation to support their exemption, FH will verify the exemption status in accordance with its verification policies. FH will make the final determination as to whether or not a family member is exempt from the community service requirement. Residents may use FH's grievance procedure if they disagree with the FH's determination.
4. Noncompliance of family member:
   - At least thirty (30) days prior to the end of the 12-month lease term, FH will begin reviewing the exempt or nonexempt status and compliance of family members;
   - If, at the end of the initial 12-month lease term under which a family member is subject to the community service requirement, FH finds the family member to be noncompliant, the PHA will not renew the lease unless:
     - The head of household and any other noncompliant resident enter into a written agreement with FH, to make up the deficient hours over the next twelve (12) month period; or
     - The family provides written documentation satisfactory to FH that the noncompliant family member no longer resides in the unit.
   - If, at the end of the next 12-month lease term, the family member is still not compliant, a 30-day notice to terminate the lease will be issued and the entire family will have to vacate, unless the family provides written documentation satisfactory to FH that the noncompliant family member no longer resides in the unit;
   - The family may use the FH's grievance procedure to dispute the lease termination.

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

______________________________ __________________

Resident Date

______________________________ __________________

Resident | Date

Resident | Date

Resident | Date

Resident | Date

EXHIBIT 11-2: DEFINITION OF A PERSON WITH A DISABILITY UNDER SOCIAL SECURITY ACTS 216(I)(L) AND SECTION 1416(EXCERPT) FOR PURPOSES OF EXEMPTION FROM COMMUNITY SERVICE

Social Security Act: 216(i)(1):

Except for purposes of sections 202(d), 202(e), 202(f), 223, and 225, the term “disability” means (A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, or blindness; and the term “blindness” means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of this paragraph as having a central visual acuity of 20/200 or less. The provisions of paragraphs (2)(A),(2)(B),(3), (4), (5), and (6) of section 223(d) shall be applied for purposes of determining whether an individual is under a disability within the meaning of the first sentence of this paragraph in the same manner as they are applied for purposes of paragraph (1) of such section. Nothing in this title shall be construed as authorizing the Commissioner or any other officer or employee of the United States to interfere in any way with the practice of medicine or with relationships between practitioners of medicine and their patients, or to exercise any supervision or control over the administration or operation of any hospital.

Section 1416 (excerpt):

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

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

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

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

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

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

EXHIBIT 11-3: PHA DETERMINATION OF EXEMPTION FOR COMMUNITY SERVICE

Family: ________________________________ Adult family member: ______________________________

This adult family member meets the requirements for being exempted from the FH'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 PHA is located, including a state-administered welfare-to-work program (*Documentation in file*)

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

Signature of Family Member Date

Signature of PHA Official Date

EXHIBIT 11-4: CSSR WORK-OUT AGREEMENT

Date: ______________________

Noncompliant Adult: ____Head of Household: _____________________________

Community Service & Self-Sufficiency Requirement (CSSR):

Under Section 12 of the U.S. Housing Act, the ________________________________(insert name of PHA) is required to enforce the community service and self-sufficiency requirement (CSSR). Under the CSSR, each nonexempt adult family member residing in the public housing must perform 8 hours per month of community service or self-sufficiency activities.

Noncompliance: ________________________(insert name of PHA) has found that the nonexempt individual named above is in noncompliance with the CSSR. This work-out agreement is the FH's written notification to you of this noncompliance.

Our records show that for the most recent lease term you were required to perform_______ hours of CSSR activities. However, there were___________hours of verified CSSR activities. Therefore, you are in noncompliance for ___hours.

(insert name of PHA) ____________________________will not renew the lease at the end of the current 12- month lease term unless the head of household and noncompliant adult sign a written work-out an agreement with ____ ____________________________(insert name of PHA) or the family provides written assurance that is satisfactory to _ ____________________________(insert name of PHA) explaining that the noncompliant adult no longer resides in the unit. The regulations require that the work-out agreement include the means through which a noncompliant family will comply with the CSSR requirement. [24 CFR960.607(c), Notice PIH 2015-12]. The terms of the CSSR work-out agreement are on the reverse side of this page.

Enforcement: Should a family member refuse to sign this CSSR work-out agreement, or fail to comply with the terms of this CSSR work-out agreement, or fail to provide satisfactory written assurance that the noncompliant adult no longer resides in the unit______________________(insert name of PHA) is required to initiate termination of tenancy proceedings at the end of the current 12- month lease.]24 CFR 966.53(c)]

Terms of CSSR Work-Out Agreement

Noncompliant Adult: ___________________________________

Please check one of the below boxes:

☐ I head of household or spouse/co-head] certify that the noncompliant adult named above no longer resides in the unit. [Verification attached.]

☐ I, the noncompliant adult named above, agree to complete _hours in the upcoming 12-month lease term.

These hours include the _______hours not fulfilled in the most previous least term, plus the 96 hours for the upcoming lease term.

Below is a description of means through which I will comply with the CSSR requirement:

Item #	Description of Activity	Number of Hours
1		
2		
3		
4		
5		
	Total hours	

SIGNED AND ATTESTED THIS DATE

_______________________________________ _______________

Signature of Noncompliant Adult Date

_______________________________________ _______________

Signature of Head of Household Date

_______________________________________ _______________

Signature of FH Official Date

EXHIBIT 16-1: FORM HUD-5380 NOTICE OF OCCUPANCY RIGHTS UNDER THE VIOLENCE AGAINST WOMEN ACT

NOTICE OF OCCUPANCY RIGHTS UNDER THE VIOLENCE AGAINST WOMEN ACT

HUD-5380: Housing Rights for Victims

U.S. Department of Housing and Urban Development

OMB Approval No. 2577-0286

Expires 1/31/2028

Protections for Victims of Domestic Violence, Dating Violence, Sexual Assault or Stalking

When should I receive this form? A covered housing provider must provide a copy of the Notice of Occupancy Rights Under The Violence Against Women Act (Form HUD-5380) and the Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking (Form HUD-5382) when you are admitted as a tenant, when you receive an eviction or termination notice and prior to termination of tenancy, or when you are denied as an applicant. A covered housing provider may provide these forms at additional times.

What is the Violence Against Women Act ("VAWA")? This notice describes protections that may apply to you as an applicant or a tenant under a housing program covered by a federal law called the Violence Against Women Act ("VAWA"). VAWA provides housing protections for victims of domestic violence, dating violence, sexual assault or stalking. VAWA protections must be in leases and other program documents, as applicable. VAWA protections may be raised at any time. You do not need to know the type or name of the program you are participating in or applying to in order to seek VAWA protections.

What if I require this information in a language other than English? To read this information in Spanish or another language, please contact Property Management Office FOR HOPWA PROVIDERS- or go to

You can read translated VAWA forms at https://www.hud.gov/program_offices/administration/hudclips/forms/hud5a#4**.** If you speak or read in a language other than English, your covered housing provider must give you language assistance regarding your VAWA protections (for example, oral interpretation and/or written translation).

What do the words in this notice mean?

- *VAWA violence/abuse* means one or more incidents of domestic violence, dating violence, sexual assault, or stalking.
- *Victim* means any victim of *VAWA violence/abuse*, regardless of actual or perceived sexual orientation, gender identity, sex, or marital status.
- *Affiliated person* means the tenant's spouse, parent, sibling, or child; or any individual, tenant, or lawful occupant living in the tenant's household; or anyone for whom the tenant acts as parent/guardian.
- *Covered housing program*[1] includes the following HUD programs:
  - Public Housing
  - Tenant-based vouchers (TBV, also known as Housing Choice Vouchers or HCV) and Project-based Vouchers (PBV) Section 8 programs
  - Section 8 Project-Based Rental Assistance (PBRA)
  - Section 8 Moderate Rehabilitation Single Room Occupancy
  - Section 202 Supportive Housing for the Elderly
  - Section 811 Supportive Housing for Persons with Disabilities
  - Section 221(d)(3)/(d)(5) Multifamily Rental Housing
  - Section 236 Multifamily Rental Housing
  - Housing Opportunities for Persons With AIDS (HOPWA) program
  - HOME Investment Partnerships (HOME) program
  - The Housing Trust Fund
  - Emergency Solutions Grants (ESG) program
  - Continuum of Care program
  - Rural Housing Stability Assistance program

- *Covered housing provider* means the individual or entity under a covered housing program that is responsible for providing or overseeing the VAWA protection in a specific situation. The covered housing provider may be a public housing agency, project sponsor, housing owner, mortgagor, housing manager, State or local government, public agency, or a nonprofit or for-profit organization as the lessor.

[1] For information about non-HUD covered housing programs under VAWA, see Interagency Statement on the Violence Against Women Act's Housing Provisions at https://www.hud.gov/sites/dfiles/PA/documents/InteragencyVAWAHousingStmnt092024.pdf.

What if I am an applicant under a program covered by VAWA? You can't be denied housing, housing assistance, or homeless assistance covered by VAWA just because you (or a household member) are or were a victim or just because of problems you (or a household member) had as a direct result of being or having been a victim. For example, if you have a poor rental or credit history or a criminal record, and that history or record is the direct result of you being a victim of VAWA abuse/violence, that history or record cannot be used as a reason to deny you housing or homeless assistance covered by VAWA.

What if I am a tenant under a program covered by VAWA? You cannot lose housing, housing assistance, or homeless assistance covered by VAWA or be evicted just because you (or a household member) are or were a victim of VAWA violence/abuse. You also cannot lose housing, housing assistance, or homeless assistance covered by VAWA or be evicted just because of problems that you (or a household member) have as a direct result of being or having been a victim. For example, if you are a victim of VAWA abuse/violence that directly results in repeated noise complaints and damage to the property, neither the noise complaints nor property damage can be used as a reason for evicting you from housing covered by VAWA. You also cannot be evicted or removed from housing, housing assistance, or homeless assistance covered by VAWA because of someone else's criminal actions that are directly related to VAWA abuse/violence against you**,** a household member, or another affiliated person.

How can tenants request an emergency transfer? Victims of VAWA violence/abuse have the right to request an emergency transfer from their current unit to another unit for safety reasons related to the VAWA violence/abuse. An emergency transfer cannot be guaranteed, but you can request an emergency transfer when:

1. You (or a household member) are a victim of VAWA violence/abuse;
2. You expressly request the emergency transfer; **AND**
3. **EITHER**
    a. you reasonably believe that there is a threat of imminent harm from further violence, including trauma, if you (or a household member) stay in the same dwelling unit; **OR**
    b. if you (or a household member) are a victim of sexual assault, either you reasonably believe that there is a threat of imminent harm from further violence, including trauma, if you (or a household member) were to stay in the unit, or the sexual assault occurred on the premises and you request an emergency transfer within 90 days (including holidays and weekend days) of when that assault occurred.

You can request an emergency transfer even if you are not lease compliant, for example if you owe rent. If you request an emergency transfer, your request, the information you provided to make the request, and your new unit's location must be kept strictly confidential by the covered housing provider. The covered housing provider is required to maintain a VAWA emergency transfer plan and make it available to you upon request.

To request an emergency transfer or to read the covered housing provider's VAWA emergency transfer plan,

Contact Property Management Office

The VAWA emergency transfer plan includes information about what the covered housing provider does to make sure your address and other relevant information are not disclosed to your perpetrator.

Can the perpetrator be evicted or removed from my lease? Depending on your specific situation, your covered housing provider may be able to divide the lease to evict just the perpetrator. This is called "lease bifurcation."

What happens if the lease bifurcation ends up removing the perpetrator who was the only tenant who qualified for the housing or assistance? In this situation, the covered housing provider must provide you and other remaining household members an opportunity to establish eligibility or to find other housing. If you cannot or don't want to establish eligibility, then the covered housing provider must give you a reasonable time to move or establish eligibility for another covered housing program. This amount of time varies, depending on the covered housing program involved. The table below shows the reasonable time provided under each covered housing programs with HUD. Timeframes for covered housing programs operated by other agencies are determined by those agencies.

Covered Housing Program(s)	Reasonable Time for Remaining Household Members to Continue to Receive Assistance, Establish Eligibility, or Move.
HOME and Housing Trust Fund, Continuum of Care Program (except for permanent supportive housing), ESG program, Section 221(d)(3) Program, Section 221(d)(5) Program, Rural Housing Stability Assistance Program	Because these programs do not provide housing or assistance based on just one person's status or characteristics, the remaining tenant(s), or family member(s) in the CoC program, can keep receiving assistance or living in the assisted housing as applicable.
Permanent supportive housing funded by the Continuum of Care Program	The remaining household member(s) can receive rental assistance until expiration of the lease that is in effect when the qualifying member is evicted.
Housing Choice Voucher, Project-based Voucher, and Public Housing programs (for Special Purpose Vouchers (e.g., HUD-VASH, FUP, FYI, etc.), see also program specific guidance)	If the person removed was the only tenant who established eligible citizenship/immigration status, the remaining household member(s) must be given 30 calendar days from the date of the lease bifurcation to establish program eligibility or find alternative housing. For HUD-VASH, if the veteran is removed, the remaining family member(s) can keep receiving assistance or living in the assisted housing as applicable. If the veteran was the only tenant who established eligible citizenship/immigration status, the remaining household member(s) must be given 30 calendar days to establish program eligibility or find alternative housing.
Section 202/811 PRAC and SPRAC	The remaining household member(s) must be given 90 calendar days from the date of the lease bifurcation or until the lease expires, whichever is first, to establish program eligibility or find alternative housing.
Section 202/8	The remaining household member(s) must be given 90 calendar days from the date of the lease bifurcation or when the lease expires, whichever is first, to establish program eligibility or find alternative housing. If the person removed was the only tenant who established eligible citizenship/immigration status, the remaining household member(s) must be given 30 calendar days from the date of the lease bifurcation to establish program eligibility or find alternative housing.
Section 236 (including RAP); Project-based Section 8 and Mod Rehab/SRO	The remaining household member(s) must be given 30 calendar days from the date of the lease bifurcation to establish program eligibility or find alternative housing.
HOPWA	The remaining household member(s) must be given no less than 90 calendar days, and not more than one year, from the date of the lease bifurcation to establish program eligibility or find alternative housing. The date is set by the HOPWA Grantee or Project Sponsor.

Are there any reasons that I can be evicted or lose assistance? VAWA does not prevent you from being evicted or losing assistance for a lease violation, program violation, or violation of other requirements that are not due to the VAWA violence/abuse committed against you or an affiliated person. However, a covered housing provider cannot be stricter with you than with other tenants, just because you or an affiliated person experienced VAWA abuse/violence. VAWA also will not prevent eviction, termination, or removal if other tenants or housing staff are shown to be in immediate, physical danger that could lead to serious bodily harm or death if you are not evicted or removed from assistance. **But only if no other action can be taken to reduce or eliminate the threat** should a covered housing provider evict you or end your assistance, if the VAWA abuse/violence happens to you or an affiliated person. A covered housing provider must provide a copy of the Notice of Occupancy Rights Under The Violence Against Women Act (Form HUD-5380) and the Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking (Form HUD-5382) when you receive an eviction or termination notice and prior to termination of tenancy.

What do I need to document that I am a victim of VAWA abuse/violence? If you ask for VAWA protection, the covered housing provider may request documentation showing that you (or a household member) are a victim. BUT the covered housing provider must make this request in writing and must give you at least 14 business days (weekends and holidays do not count) to respond, and you are free to choose any <u>one</u> of the following:

1. <u>A self-certification form (for example, Form-HUD 5382)</u>, which the covered housing provider must give you along with this notice. Either you can fill out the form or someone else can complete it for you;
2. <u>A statement from a victim/survivor service provider, attorney, mental health professional or medical professional</u> who has helped you address incidents of VAWA violence/abuse. The professional must state "under penalty of perjury" that he/she/they believes that the incidents of VAWA violence/abuse are real and covered by VAWA. Both you and the professional must sign the statement;
3. <u>A police, administrative, or court record</u> (such as a protective order) that shows you (or a household member) were a victim of VAWA violence/abuse; **OR**
4. <u>If allowed by your covered housing provider, any other statement or evidence provided by you.</u>

It is your choice which documentation to provide and the covered housing provider must accept any one of the above as documentation. The covered housing provider is prohibited from seeking additional documentation of victim status or requiring more than one of these types of documentation, unless the covered housing provider receives conflicting information about the VAWA violence/abuse.

If you do not provide one of these types of documentation by the deadline, the covered housing provider does not have to provide the VAWA protections you requested. If the documentation received by the covered housing provider contains conflicting information about the VAWA violence/abuse, the covered housing provider may require you to provide additional documentation from the list above, but the covered housing provider must give you another 30 calendar days to do so.

Will my information be kept confidential? If you share information with a covered housing provider about why you need VAWA protections, the covered housing provider must keep the information you share strictly confidential. This information should be securely and separately kept from your other tenant files. No one who works for your covered housing provider will have access to this information, unless there is a reason that specifically calls for them to access this information, your covered housing provider explicitly authorizes their access for that reason, and that authorization is consistent with applicable law.

Your information **<u>will not be disclosed</u>** to anyone else or put in a database shared with anyone else, except in the following situations:

1. If you give the covered housing provider written permission to share the information for a limited time;
2. If the covered housing provider needs to use that information in an eviction proceeding or hearing; or
3. If other applicable law requires the covered housing provider to share the information.

How do other laws apply? VAWA does not limit the covered housing provider's duty to honor court orders about access to or control of the property, or civil protection orders issued to protect a victim of VAWA abuse/violence.

Additionally, VAWA does not limit the covered housing provider's duty to comply with a court order with respect to the distribution or possession of property among household members during a family break up. The covered housing provider must follow all applicable fair housing and civil rights requirements.

Can I request a reasonable accommodation? If you have a disability, your covered housing provider must provide reasonable accommodations to rules, policies, practices, or services that may be necessary to allow you to equally benefit from VAWA protections (for example, giving you more time to submit documents or assistance with filling out forms). You may request a reasonable accommodation at any time, even for the first time during an eviction. If a provider is denying a specific reasonable accommodation because it is not reasonable, your covered housing provider must first engage in the interactive process with you to identify possible alternative accommodations. To request a reasonable accommodation, please contact Property Management Office

Your covered housing provider must also ensure effective communication with individuals with disabilities.

Have your protections under VAWA been denied? If you believe that the covered housing provider has violated these rights, you may seek help by contacting San Francisco Regional Office FHEO at (425) 489-6524 or at

(800) 347 3739

You can also find additional information on filing VAWA complaints at

https://www.hud.gov/VAWA and https://www.hud.gov/program_offices/fair_housing_equal_opp/VAWA. To file a VAWA complaint, visit https://www.hud.gov/fairhousing/fileacomplaint.

Need further help?

- For additional information on VAWA and to find help in your area, visit https://www.hud.gov/vawa.
- To talk with a housing advocate, contact

Central Valley Legal Services

(800) 675 8001

2115 Kern Street, Suite 200, Fresno, CA 93721

Public reporting burden for this collection of information is estimated to range from 45 to 90 minutes per each covered housing provider's response, depending on the program. This includes time to print and distribute the form. Comments concerning the accuracy of this burden estimate and any suggestions for reducing this burden can be sent to the Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW, Washington, D.C. 20410. This notice is required for covered housing programs under section 41411 of VAWA and 24 CFR 5.2003. Covered housing providers must give this notice to applicants and tenants to inform them of the VAWA protections as specified in section 41411(d)(2). This is a model notice, and no information is being collected. A Federal agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

EXHIBIT 16-2: HUD-5382 CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING, OR HUMAN TRAFFICKING AND ALTERNATE DOCUMENTATION

U.S.
Department of Housing and Urban Development

OMB Approval No. 2577-0286

Exp. 1/31/2028

CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

Confidentiality Note: Any personal information you share in this form will be maintained by your covered housing provider according to the confidentiality provisions below.

Purpose of Form: If you are a tenant of or applicant for housing assisted under a covered housing program, or if you are applying for or receiving transitional housing or rental assistance under a covered housing program, and ask for protection under the Violence Against Women Act ("VAWA"), you may use this form to comply with a covered housing provider's request for written documentation of your status as a "victim". This form is accompanied by a "Notice of Occupancy Rights Under the Violence Against Women Act," Form HUD-5380.

VAWA protects individuals and families regardless of a victim's age or actual or perceived sexual orientation, gender identity, sex, or marital status.

You are not expected **and cannot be asked or required** to claim, document, or prove victim status or VAWA violence/abuse other than as stated in "Notice of Occupancy Rights Under the Violence Against Women Act," Form HUD-5380.

This form is **one of your available options** for responding to a covered housing provider's written request for documentation of victim status or the incident(s) of VAWA violence/abuse. If you choose, you may submit one of the types of third-party documentation described in Form HUD-5380, in the section titled, "What do I need to document that I am a victim?". Your covered housing provider must give you at least 14 business days (weekends and holidays do not count) to respond to their written request for this documentation.

Will my information be kept confidential? Whenever you ask for or about VAWA protections, your covered housing provider must keep any information you provide about the VAWA violence/abuse or the fact you (or a household member) are a victim, including the information on this form, strictly confidential. This information should be securely and separately kept from your other tenant files. This information can only be accessed by an employee/agent of your covered housing provider if (1) access is required for a specific reason, (2) your covered housing provider explicitly authorizes that person's access for that reason, **and** (3) the authorization complies with applicable law. This information will not be given to anyone else or put in a database shared with anyone else, unless your covered housing provider (1) gets your written permission to do so for a limited time, (2) is required to do so as part of an eviction or termination hearing, **or** (3) is required to do so by law.

In addition, your covered housing provider must keep your address strictly confidential to ensure that it is not disclosed to a person who committed or threatened to commit VAWA violence/abuse against you (or a household member).

What if I require this information in a language other than English? To read this in Spanish or another language, please contact Property Management Office FOR HOPWA PROVIDERS – or go to

You can read translated VAWA forms at https://www.hud.gov/program_offices/administration/hudclips/forms/hud5a#4. If you speak or read in a language other than English, your covered housing provider must give you language assistance regarding your VAWA protections (for example, oral interpretation and/or written translation).

Can I request a reasonable accommodation? If you have a disability, your covered housing provider must provide reasonable accommodations to rules, policies, practices, or services that may be necessary to allow you to equally benefit from VAWA protections (for example, giving you more time to submit documents or assistance with filling out forms). You may request a reasonable accommodation at any time, even for the first time during an eviction. If a provider is denying a specific reasonable accommodation because it is not reasonable, your covered housing provider must first engage in the interactive process with you to identify possible alternative accommodations. Your covered housing provider must also ensure effective communication with individuals with disabilities.

Need further help? For additional information on VAWA and to find help in your area, visit https://www.hud.gov/vawa. To speak with a housing advocate, contact

Central Valley Legal Services at (800) 675-8001.

TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

1. **Name(s) of victim(s):** ______________________________

2. **Your name** (*if different from victim's*): ______________________________

3. **Name(s) of other member(s) of the household:** ______________________________

____

4. **Name of the perpetrator** *(if known and can be safely disclosed)*:______________________________

5. **What is the safest and most secure way to contact you? (You may choose more than one.)**

If any contact information changes or is no longer a safe contact method, notify your covered housing provider.

☐ **PHONE** **PHONE NUMBER:** ______________________________

Safe to receive a voicemail: ☐ Yes ☐ No

☐ **E-MAIL** **E-MAIL ADDRESS:**______________________________

Safe to receive an email: ☐ Yes ☐ No

☐ **MAIL** **MAILING ADDRESS:**______________________________

Safe to receive mail from your housing provider: ☐ Yes ☐ No

☐ **OTHER** **PLEASE LIST:**______________________________

6. **Anything else your housing provider should know to safely communicate with you?**

____
____
____
____
____

Applicable definitions of domestic violence, dating violence, sexual assault, or stalking:

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 lives with or has lived 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, 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.

Spouse or intimate partner of the victim includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

Dating violence means violence committed by a person:

(1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; **and**

(2) Where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship; (ii) The type of relationship; and (iii) The frequency of interaction between the persons involved in the relationship.

Sexual assault means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(1) Fear for the person's individual safety or the safety of others **or**

(2) Suffer substantial emotional distress.

Certification of Applicant or Tenant: By signing below, I am certifying that the information provided on this form is true and correct to the best of my knowledge and recollection, and that one or more members of my household is or has been a victim of domestic violence, dating violence, sexual assault, or stalking as described in the applicable definitions above.

______________________________ ______________________

Signature **Date**

Public Reporting Burden for this collection of information is estimated to average 20 minutes per response. This includes the time for collecting, reviewing, and reporting. Comments concerning the accuracy of this burden estimate and any suggestions for reducing this burden can be sent to the Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410. Housing providers in programs covered by VAWA may request certification that the applicant or tenant is a victim of VAWA violence/abuse. A Federal 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: FORM HUD-5381 VAWA EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING, OR HUMAN TRAFFICKING

Fresno Housing

Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking

Emergency Transfers

Fresno Housing Authorities (FH) is concerned about the safety of its tenants, and such concern extends to tenants who are victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking. In accordance with the Violence Against Women Act (VAWA),4 FH allows tenants who are victims of domestic violence, dating violence, sexual assault, , stalking, or human trafficking 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 FH 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, , stalking, or human trafficking, and on whether FH 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

2 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.

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.

Development (HUD); the Federal agency that oversees that programs such as; Housing Choice Voucher Program (HCV), Project Based Voucher (PBV), Veteran's Affairs Supportive Housing (VASH), HOME Tenant Based Rental Assistance (TBRA), Family Unification Program (FUP), Family Unification Program-Youth(FUP-Y), and Continuum of Care (CoC) administered under FH's Assisted Housing Division (AHD), Low Income Public Housing (LIPH), HOME Investment Partnership (HOME), Multifamily Project Rental Assistance (PBRA), Multifamily Project Based Section 8 operated under the California Finance Housing Agency (CalHFA) programs [HUD Programs] are in compliance with VAWA. Properties operated solely or in conjunction with one or more of the above and/or regulated under the Low Income Housing Tax Credit, (LIHTC) Internal Revenue Code (IRC) Section 42 program (Affordable Housing Program), administered under the Housing Management Division (HMD) are also to maintain compliance with VAWA.

Eligibility for Emergency Transfers

A tenant who is a victim of domestic violence, dating violence, sexual assault, , stalking, or human trafficking, as provided in HUD's regulations at 24 CFR part 5, subpart L is eligible for an emergency transfer, if: the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit. If the tenant is a victim of sexual assault, the tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90- calendar-day period preceding a request for an emergency transfer.

A tenant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan.

Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

Emergency Transfer Request Documentation

To request an emergency transfer, the tenant or participant shall start by notifying FH of the need to request the emergency transfer by completing the Emergency Transfer Request Form (HUD Form 5383). FH will provide the tenant or participant with information in writing requesting required documentation. The Tenant or Participant will then have fourteen (14) business days to submit one of the four (4) acceptable methods of documentation listed below.

HUD-Approved form – by providing to FH or to the requesting Section 8 owner or manager a written certification, on a form approved by the U.S. Department of Housing and Urban Development (HUD Form 5382):

That the individual is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking;

That the incident or incidents in question are bona fide incidents of actual or threatened abuse meeting the requirements of the applicable definitions set forth in this policy;

Includes the name of the perpetrator, if the name is known to the tenant or participant and safe to provide.

Other Documentation- In lieu of the certification form or in addition to the certification form FH may accept documentation signed by both:

An employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional,

from whom the victim has sought assistance in addressing the domestic violence, dating violence, sexual assault , stalking, or human trafficking; and the participant or tenant

The documentation shall state, under penalty of perjury, the professional's belief that the incident or incidents in question meet the requirements of the applicable definition(s) set forth in this policy.

Police or Court Record- by providing to FH or to the requesting Section 8 owner or manager a Federal, State, tribal, territorial, or local police or court record describing the incident or incidents in question.

A statement or other evidence provided by an participant or tenant.

The tenant or participant's written request for an emergency transfer should include either:

A statement expressing that the tenant or participant reasonably believes that there is a threat of imminent harm from further violence if they were to remain in the same dwelling unit assisted under FH program; OR

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.

FH will provide reasonable accommodations to this policy for individuals with disabilities.

Emergency Transfer Timing and Availability

FH cannot guarantee that a transfer request will be approved or how long it will take to process a VAWA emergency transfer request. FH will, however, act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking 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 tenant will be required to provide a good reason for refusing the unit and documentation supporting their good cause reason for refusing the unit. FH may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit. If FH has no safe and available units for which a tenant who needs an emergency is eligible, FH 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, FH will also assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, , stalking, or human trafficking that are attached to this plan.

Public Housing Transfer Hierarchy:

Transfers made pursuant to VAWA are considered emergency transfers. Tenants in PHA's Public Housing program who request and are approved for a VAWA emergency transfer will be processed for the transfer in accordance with the PHA's hierarchy of transfers as established in PHA's ACOP 12.1.

Multifamily/Affordable Housing Transfer Hierarchy:

Transfers made pursuant to VAWA are considered emergency transfers. Tenants in FH's Affordable Housing program who request and are approved for a VAWA emergency transfer will be processed for the transfer in accordance with the FH's hierarchy of transfers as established in the affordable housing management plan Section 5.5.

Housing Choice Voucher Program Issuance of Voucher:

Participants in PHA's Housing Choice Voucher Program (HCV) who request and are approved for a VAWA related transfer will be processed for a transfer voucher in accordance with the PHA's emergency transfer policies as established in the PHA’s Administrative Plan Chapter 13.2.5.

HUD-VASH Voucher /Program:

Participants in PHA’s VASH Program who request and are approved for a VAWA related transfer will be processed for a transfer voucher in accordance with the PHA’s emergency transfer policies as established in the PHA’s Administrative Plan Chapter 13.2.5.

Continuum of Care Program (CoC):

Participants in PHA’s CoC Program who request and are approved for a VAWA related transfer will be processed for a transfer voucher in accordance with the PHA’s emergency transfer policies as established in the PHA’s Administrative Plan Chapter 17.23.

HOME TBRA Program:

Participants in PHA’s HOME Tenant Based Rental Assistance Program who request and are approved for a VAWA related transfer will be processed within the HOME TBRA Program in accordance with the PHA’s emergency transfer policies as established in the PHA’s Administrative Plan Chapter 25.

Family Unification Program including FUP-Y:

Participants in PHA’s Family Unification Program and Family Unification Program- Youth Programs who request and are approved for a VAWA related transfer will be processed within the in accordance with PHA’s emergency transfer policies as established in the PHA’s Administrative Plan Chapter 13.2.5.

Project-Based Voucher Program (PBV):

Participants in PHA’s Project-Based Voucher Program who request and are approved for a VAWA related transfer will be processed for a transfer voucher in accordance with the PHA’s emergency transfer policies as established in the PHA's Administrative Plan Chapter 22.

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 & Incest National Network's National Sexual Assault Hotline** at 800-656-HOPE, or visit the online hotline at https://ohl.rainn.org/online/.

Tenants who are or have been victims of stalking seeking help may visit the **National Center for Victims of Crime's Stalking Resource Center** at https://www.victimsofcrime.org/our-programs/stalking-resource-center.

Confidentiality

FH will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives FH written permission to release the information on a time limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person(s) that committed an act(s) of domestic violence, dating violence, sexual assault, , stalking, or human trafficking against the tenant. See the Notice of Occupancy Rights under the Violence against Women Act for All Tenants for more information about FH responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

EXHIBIT 16-4: FORM HUD-5383 EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING, OR HUMAN TRAFFICKING

CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLANCE, SEXUAL ASSAULT, OR STALKING, AND ALTERNATE DOCUMENTATION	**U.S Department of Housing and Urban Development**	OMB Approval No. 2577-0286 Exp. 06/30/2017

Purpose of Form: If you are a victim of domestic violence, dating violence, sexual assault, , stalking, or human trafficking, 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 , stalking, or human trafficking. 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, , stalking, or human trafficking.** If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, your housing provider may ask you for such documentation. In response, you may submit Form HUD-5382, or any one of the other types of documentation listed on that Form.

2) **You expressly request the emergency transfer.** Submission of this form confirms that you have expressly requested a transfer. Your housing provider may choose to require that you submit this form, or may accept another written or oral request. Please see your housing provider's emergency transfer plan for more details.

3) **You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

   OR

   You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer. If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar- day period before you submit this form or otherwise expressly request the transfer.

Submission of Documentation: If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you should submit that documentation to your housing provider if it is safe for you to do so. Examples of third party documentation include, but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom you have sought assistance; a current restraining order; a recent court order or other court records; a law enforcement report or records; communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts.

Confidentiality: All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, stalking, or human trafficking, 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.

____

11) 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) ___________________________

<u>EXHIBIT 16-5: VIOLENCE AGAINST WOMEN ACT (VAWA) POLICY</u>

VIOLENCE AGAINST WOMEN ACT (VAWA) POLICY

- PURPOSE AND APPLICABILITY

  The purpose of this policy is to implement the requirements of the Violence Against Women Reauthorization Act (VAWA) with respect to the responsibilities of the City and County Fresno Housing Authority (FH) regarding domestic violence, dating violence, sexual assault and stalking. This policy shall be applicable to all of the federally-subsidized housing programs administered by FH including Housing Choice Voucher Program (HCV), Project Based Voucher (PBV), Veteran's Affairs Supportive Housing (VASH), HOME Tenant Based Rental Assistance (TBRA), Family Unification Program (FUP), Family Unification Program-Youth (FUP-Y), and Continuum of Care (CoC) administered under FH's Assisted Housing Division (AHD), Low Income Public Housing (LIPH), HOME Investment Partnership (HOME), Multifamily Project Rental Assistance (PBRA), Multifamily Project Based Section 8 operated under the California Finance Housing Agency (CalHFA) programs [HUD Programs] are in compliance with VAWA. Properties operated solely or in conjunction with one or more of the above and/or regulated under the Low Income Housing Tax Credit, (LIHTC) Internal Revenue Code (IRC) Section 42 program (Affordable Housing Program), administered under the Housing Management Division (HMD) Protections under this policy are available to all victims regardless of sex, gender identity, or sexual orientation and will be applied consistent with all nondiscrimination and fair housing requirements.

  - GOALS AND OBJECTIVES
  - Maintaining compliance with all applicable legal requirements imposed by VAWA
  - Ensuring the physical safety of victims of actual or threatened domestic violence, dating violence, sexual assault and stalking.
  - Providing and maintaining housing opportunities for victims of domestic violence, dating violence, sexual assault and stalking.
  - Creating and maintaining collaborative arrangements between FH, law enforcement authorities, victim service providers and others to promote the safety and well-being of victims of actual or threatened domestic violence, dating violence, sexual assault and stalking
  - Taking appropriate action in response to an incident or incidents of domestic violence, dating violence, sexual assault and stalking affecting individuals assisted by FH programs.

- DEFINITIONS

  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, by a person who is living with or has lived 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.

Spouse or Intimate Partner - includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

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 is determined by the following:

- Length of the relationship,
- the type of the relationship; and
- the frequency of interaction between the persons involved in the relationship.

Sexual Assault - is any type of sexual contact or behavior that occurs without the explicit consent of the recipient, including when the individual lacks capacity to consent as prescribed by Federal, tribal, State or local laws.

Stalking - engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's individual safety or the safety of others, or suffer substantial emotional distress

Affiliated individual - with respect to an individual, means a spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in the place of a parent or guardian (for example, the affiliated individual is a person in the care, custody, or control of that individual); or any other person living in the household of that individual, including lawful occupant

Perpetrator - a person who commits acts of domestic violence, dating violence, sexual assault, , stalking, or human trafficking against a victim.

VAWA Self Petitioner - refers to noncitizens who claim to be victims of “battery or extreme cruelty.” Battery or extreme cruelty includes domestic violence, dating violence, sexual assault, and stalking. VAWA allows these noncitizens to self- petition for Lawful Permanent Resident (LPR) status without the cooperation of or knowledge of their abusive relative

Actual and Imminent Threat – Words, gestures, actions, or other physical threats that is real, would occur within an immediate time frame, and could result in death or serious bodily harm [24 CFR 5.2005 (d) (2) and (e).

In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk,

- The harm and severity of the potential harm,

- The likelihood that the potential harm will occur, and
- The length of time before the potential harm would occur [24 CFR 5.2005 (e)].

Bifurcate – To divide a lease as a matter of law, subject to the permissibility of such process under the requirements of the applicable HUD-covered programs, affordable housing, and State or local laws. Divide lease to provide rights of victim and remove rights of the abuser regardless of head of household, spouse. HCV participants will work with the owner and/or Management Company of their housing unit to complete this process.

- NOTIFICATIONS PROVIDED

All applicants and tenant/participants of all FH Housing Programs will be provided HUD- 5380, "Notification of Occupancy Rights Under the Violence Against Women Act (VAWA)" and HUD-5382, "Certification of Domestic Violence, Dating violence, Sexual Assault, , stalking, or human trafficking and Alternate Documents" at the following times:

- at time of denial of assistance or admission

  at time of providing of assistance or admission
- at reexamination or lease renewal
- at any eviction or termination

These forms will be provided in the applicable language, if necessary, in accordance with Executive Order 13166 (Improving Access to Services for Persons with Limited English Proficiency).

ADMISSIONS AND SCREENING

Non-Denial of Assistance - The FH will not deny assistance or admission to any person because that person is or has been a victim of domestic violence, dating violence, sexual assault, , stalking, or human trafficking, provided that such person is otherwise qualified for admission.

Mitigation of Disqualifying Information

An applicant for assistance whose history includes incidents in which the applicant was a victim of domestic violence, may request that FH take such information into account in mitigation of potentially disqualifying information, such as poor credit history or previous damage to a dwelling.

If requested by an applicant to take such mitigating information into account, FH shall be entitled to conduct such inquiries as are reasonably necessary to verify the claimed history of domestic violence and its probable relevance to the potentially disqualifying information.

FH will not disregard or mitigate potentially disqualifying information if the applicant household includes a perpetrator of a previous incident or incidents of domestic violence.

TERMINATION OF TENANCY OR ASSISTANCE

VAWA Protections against Termination [24 CFR 5.2005 (c)]

A tenant/participant may not be denied tenancy or occupancy rights solely on the basis of criminal activity directly relating to domestic violence, dating violence, sexual assault, stalking, or human trafficking if the criminal activity is engaged in by a member of the household of the tenant/participant or any guest or other person under the control of the tenant/participant and the tenant/participant or an affiliated individual of the tenant/participant is the victim or threatened victim of such domestic violence, dating violence, sexual assault, stalking, or human trafficking

An incident of actual or threatened domestic violence, dating violence, sexual assault, , stalking, or human trafficking shall not be considered as a serious or repeated violation of the lease by the victim or threatened victim or good cause for terminating the assistance, tenancy or occupancy rights of the victim or threatened victim of such incident.

Limitations of VAWA Protections

Nothing in the above section limits the authority of the FH to comply with a court order with respect to the rights of access or control of property, including civil protection orders issued to protect a victim of domestic violence, dating violence, sexual assault, , stalking, or human trafficking, or the distribution or possession of property among members of a household.

Nothing in the above section limits any available authority of the FH to evict or terminate assistance to a tenant/participant for any violation not premised on an act of domestic violence, dating violence, sexual assault, , stalking, or human trafficking. However, the FH will not hold to a more demanding standard, a tenants/participants or an affiliated individual who is or has been a victim of or domestic violence, dating violence, sexual assault, , stalking, or human trafficking

Nothing in the above section limits the authority of the FH to evict or terminate from assistance any tenant/participant or lawful applicant if

FH can demonstrate an actual and imminent threat to other tenants/participants or to those employed at or providing service to the property, if the tenant/participant is not evicted or terminated from the assistance, and no other actions that could be taken to reduce the threat have been successful, including transferring the victim to a different unit, barring the perpetrator from the property, involving law enforcement, or seeking other legal remedies to prevent the perpetrator from acting on a threat.

VERIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, , STALKING, OR HUMAN TRAFFICKING

Requirement for Verification. Subject only to waiver as provided in paragraph D below, the FH shall require verification in all cases where an individual requests protection against an action involving domestic violence, dating violence, sexual assault, , stalking, or human trafficking.

Verification may be accomplished in one of three ways:

Completing HUD-5382, "Certification of Domestic Violence, Dating Violence, Sexual Assault, , stalking, or human trafficking"

Other documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing domestic violence, dating violence, sexual assault, , stalking, or human trafficking, or the side effects of the abuse, described in such documentation. The professional providing the documentation must sign and attest under penalty of perjury that the incident or incidents in question are bona fide and meet the requirements of the applicable definition set forth in this policy.

Police or court record - provided to the FH by federal, state, tribal, or local police or court record describing the incident or incidents in question.

Time Allowed. An individual who claims protection against adverse action based on an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault , stalking, or human trafficking, and who is requested by the FH to provide verification, must provide such verification within 14 business days after receipt of the request for verification. Failure to provide verification, in proper form within such time will result in loss of protection under VAWA and this policy against a proposed adverse action.

If the FH receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, , stalking, or human trafficking 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 FH has the right to request that the tenant/participant provide third-party documentation within thirty 30 calendar days in order to resolve the conflict. Failure to provide third-party documentation where there is conflicting evidence will result in loss of protection under VAWA and this policy against a proposed adverse action.

Waiver of verification requirement. With respect to any specific case, the FH may waive the above-stated requirements for verification and provide the benefits of this policy based on the victim's statement or other corroborating evidence. Such waiver may be granted in the sole discretion of the Executive Director or President/ CEO. Any such waiver must be in writing. Waiver in a particular instance or instances shall not operate as precedent for, or create any right to, waiver in any other case or cases, regardless of similarity in circumstances.

NON-CITIZEN SELF-PETITIONER VERIFICATION

Financial assistance to ineligible noncitizens will not be denied while verifying immigration status.

Self-petitioners can indicate that they are in "satisfactory immigration status" when applying for assistance or continued assistance. "Satisfactory immigration status" means an immigration status which does not make the individual ineligible for financial assistance. After verifying such immigration status in the Department of Homeland Security (DHS) Systematic Alien Verification for Entitlements (SAVE) System, FHs will make a final determination as to the self-petitioner's eligibility for assistance.

In order to qualify, the noncitizen victim must have been battered or subjected to extreme cruelty by their spouse or parent, who is a U.S. citizen or LPR (Lawfully Permanent Resident).

Once a FH receives a self-petition (INS Form I-360 or I-130) or INS Form 797, FH will not request any additional information from the VAWA self-petitioner, other than what is required using the SAVE system to complete the verification.

When a FH receives a self-petition or INS Form 797 Notice of Action, the FH will initiate verification in the SAVE System

Final determination from the SAVE System. FH will receive one of two confirmations:

the VAWA self-petition is verified, in which case the applicant is immediately eligible for housing and no evidence of battery or extreme cruelty shall be requested or collected;

the I-130 is verified, in which case the petitioner submitting a family-based visa petition must provide to the FH any evidence of “battery or extreme cruelty.”

Housing assistance and all other VAWA protections will be granted to the self-petitioner throughout the verification process until a final determination of LPR (Lawful Permanent Resident) status is made. If the final determination is to deny the VAWA self-petition or LPR petition, the FH must alert the petitioner and take actions to terminate voucher/rental assistance or evict the petitioner from public housing/affordable housing program (s) in accordance with the existing public/affordable or governing housing requirements.

EMERGENCY TRANSFER PLAN

Eligibility for Transfer

In accordance with the Violence Against Women Act (VAWA) the FH allows tenants/participants who are victims of domestic violence, dating violence, sexual assault, , stalking, or human trafficking to request an emergency transfer from the tenant’s current unit to another unit and/or transfer of assistance in the case of Housing Choice Voucher participants, regardless of sex, gender identity, sexual orientation. The ability of the FH to honor such request for tenants/participants currently receiving assistance may depend upon on a preliminary determination that the tenant/participant is or has been a victim of domestic violence, dating violence, sexual assault, , stalking, or human trafficking.

Type of housing program tenant/participant is currently receiving to determine the type of unit/assistance available and whether the FH has another dwelling unit and/or assistance that is available and is safe to offer the tenant/participant for temporary or more permanent occupancy.

Requesting a transfer

To request an emergency transfer the tenant/participant shall notify the FH office located at the 1331 Fulton Mall Fresno CA 93721 for programs under the Housing Choice Voucher program, or local rental office for public housing and/or affordable housing programs, and submit a written request for a transfer (HUD-5383). The FH will provide reasonable accommodations to this policy for individuals with disabilities. The tenant/participants’ written request for an emergency transfer should include either:

A statement expressing that the tenant/participant reasonably believes that there is a threat of imminent harm from further violence if the tenant/participant were to remain in the same dwelling unit assisted under one or more of the FH's program; or

A statement that the tenant/participant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar- day period preceding the tenant/participant's request for an emergency transfer.

For tenants/participants living in public housing or other affordable housing programs, FH cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. However, the FH will act as quickly as possible to move a tenant/participant who is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking to another unit, subject to availability and safety of a unit.

For Housing Choice participants, FH will work with the participant to transfer their assistance from one unit to another. FH cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. However, the FH will act as quickly as possible to move a tenant/participant who is a victim of domestic violence, dating violence, sexual assault, , stalking, or human trafficking to another unit, subject to availability and safety of a unit.

If a tenant/participant reasonably believes a proposed transfer would not be safe, the tenant/participant may request a transfer to a different unit.

If a unit is available, the transferred tenant/participant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. The FH may be unable to transfer a tenant/participant to a particular unit if the tenant cannot establish eligibility for that unit/program.

In cases where the FH determines that the family's decision to move out of the FH housing was reasonable under the circumstances, the FH may wholly or partially waive rent payments and any rent owed shall be reduced by the amounts of rent collected for the remaining lease term from a tenant subsequently occupying the unit.

Portability - An HCV-assisted tenant will not be denied portability to a unit located in another jurisdiction so long as the tenant has complied with all other requirements of the Housing Choice Voucher program and has moved from the unit in order to protect the health or safety of an individual member of the household who is or has been the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking and who reasonably believes that the tenant or other household member will be imminently threatened by harm from further violence if the individual remains in the present dwelling unit.

If the FH has no safe and available units for which a tenant/participant who needs an emergency is eligible, the FH will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant/participant could move.

At the tenant/participant's request, the FH will also assist tenants/participant in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, , stalking, or human trafficking that are attached to this plan.

Safety and Security of Tenants

Confidentiality - The FH 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 FH written permission to release the information on a time limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person(s) that committed an act(s) of domestic violence, dating violence, sexual assault, , stalking, or human trafficking against the tenant.

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant/participant is urged to take all reasonable precautions to be safe.

Tenants/participants 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/participants who have been victims of sexual assault may call the Rape, Abuse & Incest National Network's National Sexual Assault Hotline at 800-656- HOPE, or visit the online hotline at https://ohl.rainn.org/online/.

Tenants/participants 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.

OTHER REMEDIES

Lease Bifurcation

The FH may bifurcate a lease; that is, remove a household member from a lease in order to evict, remove, terminate occupancy rights, or terminate assistance to that member who engages in criminal activity related to of domestic violence, dating violence, sexual assault, , stalking, or human trafficking. In such a case, it does not matter that the perpetrator was a signatory to the lease and the victim is allowed to stay in the unit or on the program.

In removing the perpetrator from the household, the FH will follow all federal, state and local eviction procedures.

If the evicted person was the eligible person in the household, the remaining tenants will be given 90 days from the date of bifurcation of the lease to:

establish eligibility for the program they are currently under

establish eligibility under another program, or

find alternative housing

Efforts to promote housing stability

The FH will make every effort that is feasible and permissible to assist victims to remain in their units or other units of the FH and/or retain assistance. The FH will bear the cost of any transfer, where permissible.

Relationships with service providers

It is the policy of the FH to cooperate with organizations and entities, both private and governmental that provide shelter and/or services to victims of domestic violence. If the FH becomes aware that an individual assisted by the FH is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the FH will refer the victim to such providers of shelter or services as appropriate. Notwithstanding the foregoing, this Policy does not create any legal obligation requiring the FH either to maintain a relationship with any particular provider of shelter or services to victims of domestic violence or to make a referral in any particular case. The FH's annual Public Housing Agency Plan shall describe providers of shelter or services to victims of domestic violence with which the FH has referral or other cooperative relationships.

Definitions

For purposes of determining whether a tenant may be covered by VAWA, the following list of definitions applies:

VAWA defines ***domestic violence*** to include felony or misdemeanor crimes of violence committed by any of the following:

A current or former spouse of the victim

A person with whom the victim shares a child in common

A person who is cohabitating with or has cohabitated with the victim as a spouse

A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies

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

VAWA defines ***dating violence*** as violence committed by a person (1) who is or has been in a social relationship of a romantic or intimate nature with the victim AND (2) where the existence of such a relationship shall be determined based on a consideration of the following factors:

The length of the relationship

The type of relationship

The frequency of interaction between the persons involved in the relationship

VAWA defines ***stalking*** as (A)(i) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person OR (ii) to place under surveillance with the intent to kill, injure, harass, or intimidate another person AND (B) 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 (i) that person, (ii) a member of the immediate family of that person, or (iii) the spouse or intimate partner of that person.

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EXHIBIT 21-1: FH LANGUAGE ASSISTANCE PLAN

LANGUAGE ASSISTANCE PLAN

1) INTRODUCTION AND PURPOSE

Fresno Housing (FH) is committed to its obligations under Title VI of the Civil Rights Act of 1964, 42 U.S.C. §2000(d) and executive Order 13166. These obligations include ensuring meaningful access to FH's programs and services to all eligible persons, including those who have limited English proficiency (LEP) because of their national origin. The term LEP refers to individuals who have a limited ability to read, write, or understand English well or at all. To ensure meaningful access, FH has analyzed its operations and the populations it serves, and has developed this Language Assistance Plan (LAP). This plan details the steps Fresno Housing has taken and will continue to take to satisfy its obligation to provide the greatest degree of meaningful access to its programs and services by persons who have limited English proficiency.

2) ANALYSIS OF NEED

Based on 2015 American Community Survey 1-Year data estimates (ACS), 45% of Fresno County residents speak a language other than English, of which Spanish (77%) and Hmong (6%) are the most predominant and could be expected to participate in Fresno Housing services and programs. Among the Spanish or Spanish Creole speaking population of Fresno County, ACS data indicate that approximately 40% (123,846 people) speak English less than very well.

Among the Hmong speaking population, ACS data indicate that approximately 41% (9,977 people) speak English less than very well. FH has determined that a broad array of language assistance services should be provided in Spanish and Hmong.

3) FOUR FACTOR ANALYSIS

As noted above, FH has determined that it serves a significant number of persons with limited English proficiency whose first language is either Spanish or Hmong. These persons can be expected to come into contact with Fresno Housing on regular events, such as 1) application; 2) lease/ Move In; 3) reexamination; 4) termination of benefits. Each of these events is vital to the provision and maintenance of housing resources, clearly an important service of FH. FH may have multilingual employees who are available to provide interpretation services, and has the resources to provide written translation of certain vital documents into both Spanish and Hmong.

4) SPECIFICS OF LANGUAGE ASSISTANCE PROVIDED

a) Written Translation

FH has determined that the following documents are vital to the operation of each of the programs listed below. These documents will be professionally translated and made available in both Spanish and Hmong.

1) Conventional Low-Income Public Housing Program

Application

Lease

Lease termination including legal notices

2) Multifamily Affordable Housing Program, i.e. Project Based Rental Assistance (PBRA)

Application

Lease

Lease termination including legal notices

3) Housing Choice Voucher Program

Application

Lease Termination

4) Rural Development Farm Labor Housing

Application

Lease

Grievance Procedure

b) ORAL TRANSLATION

FH staff members may be available to provide oral interpretation of everyday communications with persons who have limited English proficiency and whose first language is Spanish or Hmong. Additionally, FH has contracted with Language Line Services, a commercial interpretation service that offers oral interpretation in more than 150 languages, and is available during all business hours. FH has posted in relevant locations notices of availability of the Language Line Services – at no cost to the user – for business conducted with FH.

c) MONITORING AND UPDATE OF PLAN

All staff members expected to interact with the public have been provided with guidance on the protocol in the event any person needs language assistance under this plan. This guidance includes a “quick reference guide” for Language Line Services, as well as an identification of those staff members who are fluent in languages other than English.

FH will consider conducting a Customer Service Survey. The intent of the survey will be to help FH determine if the client’s needs for translating information and documents are being met. FH will reevaluate its language assistance plan on a yearly basis to determine if 1) the population of persons with limited English proficiency has changed such that the addition or exclusion of written translations in other languages is required; and 2) the language assistance provided continues to create meaningful access to FH’s services and programs.

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GLOSSARY

TERMS USED IN DETERMINING RENT

ANNUAL INCOME (24 CFR 5.609)

Annual income is the anticipated total income from all sources. This includes net income derived from assets, received by the family head and spouse (even if temporarily absent) and by each additional family member for the 12-month period following the effective date of initial determination or reexamination of income. It does not include income that is temporary, non- recurring, or sporadic as defined in this section, or income that is specifically excluded by other federal statute.

Annual income includes:

- The full amount before any payroll deductions, of wages and salaries, overtime pay, commissions fees, tips and bonuses, and other compensation for personal services.
- The net income from operation of a business or profession, including any withdrawal of cash or assets from the operation of the business. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining the net income from a business. An allowance for the straight-line depreciation of assets used in a business or profession may be deducted as provided in IRS regulations.
- Withdrawals of cash or assets will not be considered income when used to reimburse the family for cash or assets invested in the business.
- 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 the straight-line depreciation of real or personal property is permitted. Withdrawals of cash or assets will not be considered income when used to reimburse the family for cash or assets invested in the property.
- When the family has net family assets in excess of the HUD-published threshold amount (adjusted annually and published in HUD's Inflation-Adjusted Values tables), 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.
- The full amount of periodic payments received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts.
  - NOTE: Treatment of lump sum payments for delayed or deferred periodic payment of social security or SSI benefits is dealt with later in this section.
- Payments in lieu of earnings, such as unemployment and disability compensation, workers' compensation, and severance pay.

- All welfare assistance payments received by or on behalf of any family member. (24 CFR 913.106(b)(6) contains rules applicable to "as-paid" States).

- Periodic and determinable allowances, such as alimony and child care support payments, and regular cash contributions or gifts received from persons not residing in the dwelling.
- All regular pay, special pay and allowances of a member of the Armed Forces (except special pay to a family member serving the Armed Forces who is exposed to hostile fire).

EXCLUSIONS FROM ANNUAL INCOME (24 CFR 5.609)

Annual income does not include the following:

- Income from the employment of children (including foster children) under the age of 18 years;
- Payments received for the care of foster children or foster adults (usually individuals with disabilities, unrelated to the resident family, who are unable to live alone);
- Lump sum additions to family assets, such as inheritances, insurance payments (including payments under health, and accident insurance and workers' compensation) capital gains, and settlement for personal property losses;
- Amounts received by the family that are specifically for, or in reimbursement of the cost of medical expenses for any family member.
- Income of a live-in aide, provided the person meets the definition of a live-in aide.
- The full amount of student financial assistance paid directly to the student or the educational institution.
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.
- Amounts received under HUD funded training programs (e.g. Step-up program); excludes stipends, wages, transportation payments and child care vouchers for the duration of the training.
- Amounts received by a person with disabilities that are disregarded for a limited time for purposes of Supplemental Security Income and benefits that are set aside for use under a Plan to Attain Self Sufficiency (PASS).
- Amounts received by a participant in other publicly assisted programs that are specifically for, or in reimbursement of, out of pocket expenses incurred for items such as special equipment, clothing, transportation and childcare, to allow participation in a specific program.
- Amount received as a Resident services stipend. A modest amount (not to exceed $200 per month) received by a public housing resident for performing a service for the PHA, on a part-time basis, that enhances the quality of life in public housing. Such services may include but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as the resident member of the PHA

governing Board. No resident may receive more than one such stipend during the same period of time.

- 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 family members 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.
- Temporary, non-recurring, or sporadic income (including gifts).
- Reparation payments paid by foreign governments pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era. (For all initial determinations and reexaminations of income on or after April 23, 1993.)
- Earnings in excess of $480 for each full-time student 18 years old or older, (excluding the head of household and spouse).
- Adoption assistance payments in excess of $480 per adopted child.
- The earnings and benefits to any resident resulting from the participation in a program providing employment training and supportive services in accordance with the Family Support Act of 1988 (42 U.S.C. 1437 et seq.), or any comparable Federal, State or local law during the exclusion period. For purposes of this paragraph the following definitions apply:
    - Comparable Federal, State or local law means a program providing employment training and supportive services that: (1) is authorized by a Federal, State or local law; (2) is funded by the Federal, State or local government; (3) is operated or administered by a public agency; and (4) has as its objective to assist participants in acquiring job skills.
    - Exclusion period means the period during which the resident participates in a program as described in this section plus 18 months from the date the resident begins the first job acquired by the resident after completion of such program that <u>is not</u> funded by public housing assistance under the U.S. Housing Act of 1937. If the resident is terminated from employment without good cause, the exclusion period shall end.
    - Earnings and benefits means the incremental earnings and benefits resulting from a qualifying employment training program or subsequent job.
- Deferred periodic payments from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts.
- 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.

- Amounts paid by a State agency to a family with a developmentally disabled family member living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home.
- Amounts specifically excluded by any other Federal Statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under the United States Housing Act of 1937.(A notice will be published by HUD in the Federal Register identifying the benefits that qualify for this exclusion.

The following benefits are excluded by other Federal Statute as of August 3, 1933:

- The value of the allotment provided to an eligible household for coupons under the Food Stamp Act of 1977;
- Payments to volunteers under the Domestic Volunteer Service Act of 1973; examples of programs under this Act include but are not limited to:
- The Retired Senior Volunteer Program (RSVP) Foster Grandparent Program (FGP)
- Senior Companion Program (SCP)
- Older American Committee Service Program National Volunteer Antipoverty Programs such as:
- VISTA
- Peace Corps
- Service Learning Program Special Volunteer Programs
- Small Business Administration Programs such as:
    - National Volunteer Program to Assist Small Businesses Service Corps of Retired Executives
- Payments received under the Alaska Native Claims Settlement Act. [43 USC 1626 (a)]
- Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes. [25 USC 459e]
- Payments or allowances made under the Department of HHS' Low Income Home Energy Assistance Program. [42 USC 8624 (f)]
- Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 USC 1552 (b)
- Income derived from the disposition of funds of the Grand River Band of Ottawa Indians (Pub. L. 94-540).

- The first $2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the Court of Claims (25 USC. 1407-08), or from funds held in trust for an Indian Tribe by the Secretary of Interior.

- Amounts of scholarships funded under Title IV of the Higher Education Act of 1965 including awards under the Federal work-study program or under the Bureau of Indian Affairs student assistance programs. [20 USC 1087 uu] Examples: Basic Educational Opportunity Grants (Pell Grants), Supplemental Opportunity Grants, State Student Incentive Grants, College-Work Study, and Byrd Scholarships.
- Payments received under programs funded under Title V of the Older Americans Act of 1965 [42 USC 3056 (f)] Examples include Senior Community Services Employment Program, National Caucus Center on the Black Aged, National Urban League; Association National Pro Personas Mayores, National Council on Aging, American Association of Retired Persons, National Council on Senior Citizens, and Green Thumb.
- Payments received after January 1, 1989 from the Agent Orange Settlement Fund or any other fund established in the In-Re Orange Product Liability litigation.
- The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs of incurred in such care) under the Child Care and Development Block Grant Act of 1990. (42 USC 9858q)
- Earned income tax credit refund payments received on or after January 1, 1991. (26 USC 32)(j).
- Living allowances under Americorps Program (Nelson Diaz Memo to George Latimer 11/15/94)

ADJUSTED INCOME

Annual income, less allowable HUD deductions.

Note: Under the Continuing Resolution, PHAs are permitted to adopt other adjustments to earned income for residents of Public Housing, but must absorb any resulting loss in rental income.

All Families are eligible for the following:

Child Care Expenses: A deduction of amounts anticipated to be paid by the family for the care of children under 13 years of age for the period for which the Annual Income is computed. Child care expenses are only allowable when such care is necessary to enable a family member to be gainfully employed or to further his/her education.

Amounts deducted must be unreimbursed expenses and shall not exceed: (1) The amount of income earned by the family member released to work, or (2) an amount determined to be reasonable by the PHA when the expense is incurred to permit education.

Dependent Deduction. An exemption of $500 for each member of the family residing in the household (other than the head or spouse, live-in aide, foster child) who is under eighteen years of age or who is eighteen years of age or older and disabled, or a full- time student . Adjusted by HUD annually for inflation (CPI-W) and rounded to the next lowest multiple of $25.

Disabled Person Expenses. A deduction of unreimbursed amounts paid for attendant care or auxiliary apparatus expenses for disabled family members where such expenses are necessary to permit a family member(s), including the disabled member to be employed. In no event may the amount of the deduction exceed the employment income earned by the family member(s) freed to work.

Equipment and auxiliary apparatus may include but are not limited to: wheelchairs, lifts, reading devices for visually disabled, and equipment added to cars and vans to permit use by the disabled family member.

For non-elderly families and elderly families without medical expense: The amount of the deduction equals the cost of all unreimbursed expenses for disabled care and equipment less three percent of Annual Income, provided the amount so calculated does not exceed the employment income earned.

For elderly families with medical expenses: The amount of the deduction equals the cost of all unreimbursed expenses for disabled care and equipment less three percent of Annual Income, (provided the amount does not exceed earnings) plus medical expenses as defined below.

For Elderly and Disabled Families Only:

Medical Expenses: A deduction of unreimbursed medical expenses, including insurance premiums anticipated for the period for which Annual Income is computed. Medical expenses include, but are not limited to: services of physicians and other health care professionals, services of health care facilities; insurance premiums, including the cost of Medicare), prescription and non- prescription medicines, transportation to and from treatment, dental expenses, eyeglasses, hearing aids and batteries, attendant care (unrelated to employment of family members), expenses for service animals such as shots/vaccinations, license fees, and payments on accumulated medical bills. To be considered by the PHA for the purpose of determining a deduction from the income, the expenses claimed must be verifiable.

For elderly families without disabled person expenses: The amount of the deduction shall equal total medical expenses less 10% of annual income.

For elderly families with both disabled and medical expenses: The amount of disabled assistance is calculated first, then medical expenses are added.

Elderly/Disabled Household Exemption: An exemption of $550 per household . Adjusted by HUD annually for inflation (CPI-W) and rounded to the next lowest multiple of $25.

HOUSING TERMS

ACCESSIBLE DWELLING UNITS. When used with respect to the design, construction or alteration of an individual dwelling unit, means that the unit is located on an accessible route, and when designed, constructed, or altered, can be approached, entered, and used by individuals with a physical disability.

A unit that is on an accessible route and is adaptable and otherwise in compliance with the standards set forth in 24 CFR 8.32 & 40, (the Uniform Federal Accessibility Standards) is “accessible” within the meaning of this paragraph.

ACCESSIBLE FACILITY. All or any portion of a facility other than an individual dwelling unit used by individuals with physical disabilities.

ACCESSIBLE ROUTE. For persons with a mobility impairment, a continuous, unobstructed path that complies with space and reach requirements of the Uniform Federal Accessibility Standards (UFAC). For persons with hearing or vision impairments, the route need not comply with requirements specific to mobility.

ADAPTABILITY. Ability to change certain elements in a dwelling unit to accommodate the needs of disabled and non-disabled persons; or ability to meet the needs of persons with different types and degrees of disability.

ADMISSION. Admission to the program is the effective date of the lease. The point at which a family becomes a resident.

ALLOCATION PLAN. The plan submitted by the PHA and approved by HUD under which the PHA is permitted to designate a building, or portion of a building, for occupancy by Elderly Families or Disabled Families.

ANNUAL INCOME AFTER ALLOWANCES. The Annual Income (described above) less the HUD-approved allowances.

APPLICANT (or applicant family). A family that has applied for admission to a program, but is not yet a participant in the program.

APPLICANT PORTAL. The Applicant Portal has been established for persons who submit a pre-application with FH so that they may create an on-line account to review and update their personal information, including their current address, as well as indicate their continued interest in remaining on the interest list. FH's method of communication with the applicant may be either by mail or electronic email, therefore, it is critical that applicants have a valid, current mailing address and email address at all times so that FH is able to make contact with the applicant when selected from the interest list.

"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 and activities.

CO-HEAD. An individual in the household who is equally responsible for the lease with the Head of Household. A family may have a Co-head or Spouse, but not both. A co-head never qualifies as a dependent.

COVERED FAMILIES. The statutory term "covered families" designates the universe of families who are required to participate in a welfare agency economic self-sufficiency program and may, therefore, be the subject of a welfare benefit sanction for noncompliance with this obligation. "Covered families" means families who receive welfare assistance or other public assistance benefits from a State or other public agency under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

DAY LABORER. An individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future.

De MINNIMIS ERROR. An error that results in a difference in the determination of a family's adjusted income of $30 or less per month

DEPENDENT. A member of the family household (excluding foster children) other than the family head or spouse, who is under 18 years of age or is a Disabled Person, or is a full-time student 18 years of age or older.

DESIGNATED FAMILY. The category of family for whom the PHA elects to designate a development (e.g. elderly family in a development designated for elderly families) in accordance with the 1992 housing Act. (24 CFR 945.105)

DISABILITY ASSISTANCE EXPENSE. Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and or 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.

DISABILITY. This term is used where "handicap" was formerly used.

DISABLED FAMILY. A family whose head, spouse, or sole member is a person with disabilities. A disabled family may include two or more persons with disabilities living together, or one or more persons with disabilities living with one or more live-in aides

DISABLED PERSON. See Person with Disabilities. DISALLOWANCE. Exclusion from annual income.

DISPLACED FAMILY. A family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal Disaster relief laws.

DOMICILE. The legal residence of the household head or spouse as determined in accordance with State and local law.

DRUG-RELATED CRIMINAL ACTIVITY. Term means:

Drug-trafficking; or

Illegal use, or possession for personal use of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

DRUG TRAFFICKING. The illegal manufacture, sale, distribution or the possession with intent to manufacture, sell, or distribute a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

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. Economic self-sufficiency programs can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, any other program necessary to ready a participant to work (such as: substance abuse or mental health treatment. Economic self-sufficiency program includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). See the definition of work activities at Sec. 5.603(c). The new definition of the term “economic self- sufficiency program” is used in the following regulatory provisions, pursuant to the Public Housing Reform Act: family income includes welfare benefits reduced because of family failure to comply with welfare agency requirements to participate in an economic self-sufficiency program; and the requirement for public housing residents to participate in an economic self- sufficiency program or other eligible activities.

ELDERLY FAMILY. A family whose head or spouse or whose sole member is at least 62 years, or two or more persons who are at least 62 years of age or a disabled person. It may include two or more elderly, disabled persons living together or one or more such persons living with one or more live-in aides.

ELDERLY PERSON. A person who is at least 62 years old.

ELIGIBLE FAMILY (Family). A family is defined by the PHA in the Admission and Continued Occupancy Plan.

EXCEPTIONAL MEDICAL OR OTHER EXPENSES. Prior to the regulation change in 1982, this meant medical and/or unusual expenses as defined in Part 889 which exceeded 25% of the Annual Income. It is no longer used.

EXCESS HEALTH AND MEDICAL CARE EXPENSES. Any medical expenses incurred by elderly families only in excess of 10% of Annual Income which are not reimbursable from any other source.

EXTREMELY LOW-INCOME FAMILY. A family whose annual income does not exceed 30 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 30 percent of the median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

FAMILY. Two or more persons (with or without children) regularly living together, related by blood, marriage, adoption, guardianship or operation of law who will live together in PHA housing; OR two or more persons who are not so related, but are regularly living together, can verify shared income or resources who will live together in PHA housing.

The term family also includes the following terms defined in this section:

Elderly family

Disabled family

Displaced person

Single person,

Remaining member of a resident family,

A foster care arrangement, or a kinship care arrangement

Other persons, including members temporarily absent (e.g. a child temporarily placed in foster care or a student temporarily away at college), may be considered a part of the applicant family's household if they are living or will live regularly with the family.

Live-In Aides may also be considered part of the applicant family's household. However, live-in aides are not family members and have no right of tenancy or continued occupancy.

Foster Care Arrangements include situations in which the family is caring for a foster adult, child or children in their home who have been placed there by a public child placement agency, or a foster adult or adults placed in the home by a public adult placement agency. For purposes of continued occupancy; the term family also includes the remaining member of a resident family with the capacity to execute a lease.

FAMILY OF VETERAN OR SERVICE PERSON. A family is a "family of veteran or serviceperson" when:

The veteran or serviceperson (a) is either the head of household or is related to the head of the household; or (b) is deceased and was related to the head of the household, and was a family member at the time of death.

The veteran or serviceperson, unless deceased, is living with the family or is only temporarily absent unless s/he was (a) formerly the head of the household and is permanently absent because of hospitalization, separation, or desertion, or is divorced; provided, the family contains one or more persons for whose support s/he is legally responsible and the spouse has not remarried; or (b) not the head of the household but is permanently hospitalized; provided, that s/he was a family member at the time of hospitalization and there remain in the family at least two related persons.

FAMILY SELF-SUFFICIENCY PROGRAM (FSS PROGRAM). The program established by a PHA to promote self-sufficiency of assisted families, including the provision of supportive services.

FLAT RENT. Rent for a public housing dwelling unit that is based on the market rent. The market rent is the rent charged for comparable units in the private, unassisted rental market at which the PHA could lease the public housing unit after preparation for occupancy. However, the flat rental amounts are to be set at no less than 80 percent of the HUD's fair market rent (FMR) for the PHA's jurisdiction.

FOSTER CHILD CARE PAYMENT. Payment to eligible households by state, local, or private agencies appointed by the State, to administer payments for the care of foster children.

FULL-TIME STUDENT. A person who is attending school or vocational training on a full-time basis.

GUEST. For the purposes of determining whether an individual's criminal activity is the responsibility of the resident, a guest is 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 requirements of the lease apply to a guest as so defined.

HEAD OF HOUSEHOLD. The person who assumes legal and financial responsibility for the household and is listed on the application as head.

HOUSING AGENCY. A state, country, municipality or other governmental entity or public body authorized to administer the program. The term "PHA" includes an Indian housing authority (IHA). ("PHA" and "PHA" mean the same thing.). The Housing Authority is referred to as "HA" or "Housing Authority" throughout this document.

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974. The Act in which the U.S.

Housing Act of 1937 was recodified, and which added the Section 8 Programs.

HOUSING ASSISTANCE PLAN. A Housing Assistance Plan submitted by a local government participating in the Community Development Block Program as part of the block grant application, in accordance with the requirements of 570.303(c) submitted by a local government not participating in the Community Development Block Grant Program and approved by HUD. A Housing Assistance Plan meeting the requirements of 570.303(c) submitted by a local government not participating in the Community Development Block Grant Program and approved by HUD.

HOUSING QUALITY STANDARDS (HQS). The HUD minimum quality standards for housing assisted under the Public Housing and Section 8 programs.

HUD. The Department of Housing and Urban Development or its designee.

HUD REQUIREMENTS. HUD requirements for the Section 8 programs. HUD requirements are issued by HUD headquarters as regulations. Federal Register notices or other binding program directives.

HURRA. The Housing and Urban/Rural Recovery Act of 1983 legislation that resulted in most of the 1984 HUD Regulation changes to the definition of income, allowances, and rent calculations.

IMPUTED ASSET. Asset disposed of for less than Fair Market Value during two years preceding examination or reexamination.

IMPUTED INCOME. HUD passbook rate times the total cash value of assets, when assets exceed $50,000.

IMPUTED WELFARE INCOME. The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income. This amount is included in family annual income and, therefore, reflected in the family rental contribution based on this income.

INCOME. Income from all sources of each member of the household as determined in accordance with criteria established by HUD.

INCOME-BASED RENT. The resident rent paid to the PHA that is based on family income and the PHA rental policies. The PHA uses a percentage of family income or some other reasonable system to set income-based rents. The PHA has broad flexibility in deciding how to set income- based rent for its residents. However, the income-based resident rent plus the PHA's allowance for resident paid utilities may not exceed the "total resident payment" as determined by a statutory formula.

INCOME FOR ELIGIBILITY. Annual Income.

INCOME TARGETING. The HUD admissions requirement that PHAs not admit less than the number required by law of families have incomes at a greater of the Federal poverty level or 30 percent of area median income. In addition, the new ELI limits cannot exceed the Very Low- Income (VLI) limits; therefore, in some cases the ELI limits are identical to the VLI.

INDEPENDENT CONTRACTOR. An individual who qualifies as an independent contractor, instead of an employee, under IRS federal income tax requirements and whose earnings are subject to the self-employment tax.

INDIAN. Any person recognized as an Indian or Alaska Native by an Indian Tribe, the federal government, or any State.

INDIAN HOUSING AUTHORITY (IHA). A housing agency established either by exercise of the power of self-government of an Indian Tribe, independent of State law, or by operation of State law providing specifically for housing authorities for Indians.

Inflationary index. An index based on the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) used to make annual adjustments to the deduction for elderly disabled families, the cap for imputing returns on assets, the restriction on net family assets, the amount of net assets the PHA may determine based on self-certification by the family, and the dependent deduction.

INTEREST LIST. A list of applicants wishing to participate in the random lottery/selection process.

INTEREST REDUCTION SUBSIDIES. The monthly payments or discounts made by HUD to reduce the debt service payments and, hence, rents required on Section 236 and 221 (d)(3) BMIR developments. Includes monthly interest reduction payments made to mortgagees of Section 236 developments and front-end loan discounts paid on BMIR developments.

INVOLUNTARILY DISPLACED PERSON. Involuntarily Displaced Applicants are applicants who meet the HUD definition for the local preference, formerly known as a federal preference.

LANDLORD. Refers to the HA, as either the legal owner of the property, or the owner's representative or managing agent as designated by the owner.

LEASE. A written agreement between an owner and an eligible family for the leasing of a housing unit.

LIVE-IN AIDE. A person who resides with an elderly person or disabled person and who: Is determined to be essential to the care and well-being of the person. Is not obligated for the support of the person. Would not be living in the unit except to provide necessary supportive services.

LOCAL PREFERENCE. A preference used by the PHA to select among applicant families without regard to their date and time of application.

LOW-INCOME FAMILY. This definition replaces a previous statutory reference. Generally, "low- income" designates a family whose income does not exceed 80 percent of area median income, with certain adjustments.

MARKET RENT. The rent HUD authorizes the owner of FHA insured/subsidized multi-family housing to collect from families ineligible for assistance. For unsubsidized units in an FHA- insured multi-family development in which a portion of the total units receive development- based rental assistance, under the Rental Supplement or Section 202/Section 8 Programs, the Market Rate Rent is that rent approved by HUD and is the Contract Rent for a Section 8 Certificate holder. For BMIR units, Market Rent varies by whether the development is a rental or cooperative.

HEALTH AND MEDICAL CARE EXPENSES. Those total medical expenses anticipated during the period for which Annual Income is computed, and which are not covered by insurance. (Only Elderly Families qualify) The allowances are applied when medical expenses exceed 10% of Annual Income.

MINIMUM RENT. An amount established by the PHA between zero and $ 25.00

MINOR. A member of the family household (excluding foster children) other than the family head or spouse who is under 18 years of age.

MONTHLY ADJUSTED INCOME. 1/12 of the Annual Income after Allowances.

MONTHLY INCOME. 1/12 of the Annual Income before allowances.

NEAR-ELDERLY FAMILY. A family whose head, spouse, or sole member is at least 50, but less than 62 years of age. The term includes two or more near-elderly persons living together and one or more such persons living with one or more live-in aides.

NET FAMILY ASSETS. Net family assets. (1) Net family assets is the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment. (2) In determining net family assets, PHAs or owners, as applicable, must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets. (3) Excluded from the calculation of net family assets are: (i) The value of necessary items of personal property; (ii) The combined value of all non-necessary items of personal property if the combined total value does not exceed the HUD-published threshold amount (adjusted annually and published in HUD's Inflation-Adjusted Values tables); (iii) The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; (iv) The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located; (v) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability; (vi) The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986, the value of any qualified tuition program under section 529 of such Code, the value of any Achieving a Better Life Experience (ABLE) account authorized under Section 529A of such Code, and the value of any "baby bond" account created, authorized, or funded by Federal, State, or local government. (vii) Interests in Indian trust land; (viii) Equity in a manufactured home where the family receives assistance under 24 CFR part 982; (ix) Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982; (x) Family Self-Sufficiency Accounts; and (xi) Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family. (4) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the trust fund is not a family asset and the value of the trust is not included in the calculation of net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household.

OCCUPANCY STANDARDS [Now referred to as Subsidy Standards]. Standards established by a PHA to determine the appropriate number of bedrooms for families of different sizes and compositions.

PARTICIPANT. A family that has been admitted to the PHA program, and is currently assisted in the program.

PERSON WITH DISABILITIES.

A person who has a disability, as defined in 42 U. S. C. 423, and is determined, under HUD regulations, to have a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration, substantially impedes the ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

A person who has a developmental disability as defined in 42 U.S.C. 6001.

An "individual with disabilities", as defined in 24 CFR 8.3, for purposes of reasonable accommodation and program accessibility for persons with disabilities

Does not exclude persons who have AIDS or conditions arising from AIDS

Does not include a person whose disability is based solely on any drug or alcohol dependence (for low income housing eligibility purposes)

PREMISES. The building or complex in which the dwelling unit is located including common areas and grounds.

PREVIOUSLY UNEMPLOYED. Includes a person who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

PUBLIC ASSISTANCE. Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by Federal, state, or local governments.

PUBLIC HOUSING AGENCY (PHA). A state, county, municipality, or other governmental entity or public body authorized to administer the programs. The term "PHA" includes an Indian housing authority (IHA). ("PHA" and "PHA" mean the same thing.)

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; or increased earnings by a family member during participation in any economic self-sufficiency or on the job training program; or new employment or increased earnings of a family member, during or within 6 months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the PHA in consultation with the local CALWORKS agency and Welfare to Work programs. CALWORKS includes income and benefits & services such as one time payments, wage subsidies & transportation assistance, as long as the total amount over a 6-month period is at least $500.

QUALITY HOUSING AND WORK RESPONSIBILITY ACT OF 1998. The Act which amended the U.S. Housing Act of 1937 and is known as the Public Housing Reform Bill. The Act is directed at revitalizing and improving HUD's Public Housing and Section 8 assistance programs.

Real property. Has the same meaning as that provided under the law of the State in which the property is located.

REEXAMINATION. Sometimes called reexamination. The process of securing documentation of total family income used to determine the rent the resident will pay for the next 12 months if no interim changes are reported by the family.

REMAINING MEMBER OF RESIDENT FAMILY. Person left in assisted housing after other family members have left and become unassisted.

RESIDENT is used to refer to participants in terms of their relation as a lessee to the HA as the landlord.

RESIDENCY PREFERENCE. A local preference for admission of persons who reside in a specified geographic area.

RESPONSIBLE ENTITY. For the public housing, Section 8 resident-based assistance, development-based certificate assistance and moderate rehabilitation program, the responsible entity means the PHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

SEASONAL WORKER. An individual who is hired for a short-term position where employment begins about the same time each year, typically they are hired to address seasonal demands. AA

SECRETARY. The Secretary of Housing and Urban Development.

SECURITY DEPOSIT. A dollar amount which can be collected from the family by the owner upon termination of the lease and applied to unpaid rent, damages or other amounts owed to the owner under the lease according to State or local law.

SERVICEPERSON. A person in the active military or naval service (including the active reserve) of the United States.

SINGLE PERSON. A person living alone or intending to live alone who is not disabled, elderly, or displaced, or the remaining member of a resident family.

SPECIFIED WELFARE BENEFIT REDUCTION. Those reductions of welfare agency benefits (for a covered family) that may not result in a reduction of the family rental contribution. "Specified welfare benefit reduction" means a reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self- sufficiency program.

SPOUSE. The marriage partner of the head of the household.

SUBSIDIZED DEVELOPMENT. A multi-family housing development (with the exception of a development owned by a cooperative housing mortgage corporation or association) which receives the benefit of subsidy in the form of:

Below-market interest rates pursuant to Section 221(d)(3) and (5) or interest reduction payments pursuant to Section 236 of the National Housing Act; or

Rent supplement payments under Section 101 of the Housing and Urban Development Act of 1965; or

Direct loans pursuant to Section 202 of the Housing Act of 1959; or

Payments under the Section 23 Housing Assistance Payments Program pursuant to Section 23 of the United States Housing Act of 1937 prior to amendment by the Housing and Community Development Act of 1974;

Payments under the Section 8 Housing Assistance Payments Program pursuant to Section 8 of the United States Housing Act after amendment by the Housing and Community Development Act unless the development is owned by a Public Housing Agency;

A Public Housing Development.

SUBSIDY STANDARDS. Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

TENANT. (Synonymous with resident) The person or persons who executes the lease as lessee of the dwelling unit.

RESIDENT 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.

UNIT/HOUSING UNIT. Residential space for the private use of a family. The size of a unit is based on the number of bedrooms contained within the unit and generally ranges from zero bedrooms to six bedrooms.

UTILITIES. Utilities means water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection and sewage services. Telephone service is not included as a utility.

UTILITY ALLOWANCE. The PHA’s estimate of the average monthly utility bills for an energy- conscious household. If all utilities are included in the rent, there is no utility allowance. The utility allowance will vary by unit size and type of utilities.

UTILITY REIMBURSEMENT PAYMENT. The amount, if any, by which the Utility Allowance for the unit, if applicable, exceeds the Total Tenant Payment for the family occupying the unit.

VERY LARGE LOWER-INCOME FAMILY. Prior to the change in the 1982 regulations this meant a lower-income family which included eight or more minors. (Term no longer used)

VERY LOW INCOME FAMILY. A Low-Income Family whose Annual Income does not exceed 50% of the median income for the area, as determined by HUD, with adjustments for smaller and larger families.

HUD may establish income limits higher or lower than 50% of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes.

VETERAN. A person who 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.

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 subsidy to become available.

WELFARE ASSISTANCE. Welfare or other payments to families or individuals, based on need, that are made under programs funded, separately or jointly, by Federal, state, or local governments. "Welfare assistance" means income assistance from Federal or State welfare programs, and includes only cash maintenance payments designed to meet a family's ongoing basic needs. The definition borrows from the Department of Health and Human Services' CALWORKS definition of "assistance" and excludes nonrecurring short-term benefits designed to address individual crisis situations. For FSS purposes, the following do not constitute welfare assistance: Cal Fresh; emergency rental and utilities assistance; and SSI, SSDI, and Social Security.

TERMS USED IN THE NON-CITIZENS RULE

CHILD. A member of the family other than the family head or spouse who is under 18 years of age.

CITIZEN. A citizen or national of the United States.

EVIDENCE. Evidence of citizenship or eligible immigration status means the documents which must be submitted to evidence citizenship or eligible immigration status.

PHA. A housing authority- either a public housing agency or an Indian housing authority or both.

HEAD OF HOUSEHOLD. The adult member of the family who is the head of the household for purpose of determining income eligibility and rent.

HUD. Department of Housing and Urban Development.

INS. The U.S. Immigration and Naturalization Service.

MIXED FAMILY. A family whose members include those with citizenship or eligible immigration status and those without citizenship or eligible immigration status.

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.

NONCITIZEN. A person who is neither a citizen nor nation of the United States.

NONCITIZENS RULE. Refers to the regulation effective June 19, 1995, restricting assistance to

U.S. citizens and eligible immigrants.

PHA. A housing authority that operates Public Housing.

RESPONSIBLE ENTITY. The person or entity responsible for administering the restrictions on providing assistance to non-citizens with ineligible immigration status (the PHA).

SECTION 214. Section 214 restricts HUD from making financial assistance available for non- citizens unless they meet one of the categories of eligible immigration status specified in Section 214.

SPOUSE. Spouse refers to the marriage partner, either a husband or wife, who is someone you need to divorce in order to dissolve the relationship. It includes the partner in a common-law marriage. It does not cover boyfriends, girlfriends, significant others, or "co-heads." "Co-head" is a term recognized by some HUD programs, but not by public and Indian housing programs.

TERMS USED IN THE VIOLENCE AGAINST WOMEN ACT PROVISIONS

DOMESTIC VIOLENCE. The term "domestic violence" includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited 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..

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.

STALKING.

(i) To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person; and (ii) 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-that person; a member of the immediate family of that person; or the spouse or intimate partner of that person.

IMMEDIATE FAMILY MEMBER. Means with respect to a person-a spouse, parent, brother, sister, or child of that person, or an individual to whom that person stands in loco parentis; or any other person living in the household of that person and related to that person by blood or marriage.

TERMS USED IN MIXED FINANCE DEVELOPMENTS

DEVELOPMENT. Is a housing facility consisting of public housing units, and that may also consist of non-public housing units, that has been developed, or that will be developed, using mixed-finance strategies.

MIXED-FINANCE. Is the combined use of publicly and privately financed sources of funds for the development of public housing units.

PUBLIC HOUSING UNIT. A unit that is eligible to receive operating subsidy pursuant to section 9 of the

Act (42 U.S.C.1437g).