



# Dakota County CDA Board of Commissioners

## Board Meeting Agenda

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Meeting Date: March 27, 2024

1:00 PM

CDA Boardroom, Eagan, MN

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### 1. Call To Order And Roll Call

### 2. Audience

Anyone wishing to address the CDA Board on an item not on the agenda, or an item on the consent agenda may notify the Clerk to the Board (Sarah Jacobson, [sjacobson@dakotacda.org](mailto:sjacobson@dakotacda.org) or 651-675-4434) and instructions will be given to participate during the meeting or provide written comments. Verbal comments are limited to five minutes.

### 3. Approval Of Agenda And Meeting Minutes

A. Approval Of Meeting Minutes – February 28, 2024 Special Meeting 3

### 4. Federal Public Housing And Housing Choice Voucher

#### Consent Agenda

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#### Regular Agenda

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- D. Award Contract For Haskell Court (West St. Paul) Elevator Modernization 161
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- F. Establish The Date For A Public Hearing To Consider Conveyance Of Property In Hastings To Dakota County 168

## 6. Regular Agenda

- A. Public Hearing To Receive Comments And Adoption Of The 2025 Qualified Allocation Plan For Low Income Housing Tax Credits 172
- B. Authorize The Executive Director To Execute A Construction Contract As General Partner Of The Denmark Trail Workforce Housing Limited Partnership (Denmark Trail Townhomes, Farmington) 213
- C. FYE2025 Budget Preview
- D. Legislative Update
- E. Executive Director Update

## 7. Information

## 8. Adjournment

**For more information, call 651-675-4434.**

**Dakota County CDA Board meeting agendas are available online at:**  
[http://www.dakotacda.org/board\\_of\\_commissioners.htm](http://www.dakotacda.org/board_of_commissioners.htm)

## Next Meeting

April 24, 2024

CDA Board of Commissioners Regular Meeting – 1:00 p.m.

Dakota County CDA Boardroom, 1228 Town Centre Drive, Eagan, MN 55123



# Board of Commissioners – Special Meeting

## Meeting Minutes

Meeting Date: February 28, 2024 2:00 PM

Boardroom; CDA Office, Eagan, MN

*Commissioner Slavik called the meeting to order at 2:04 p.m.*

### **COMMISSIONER ROLL CALL**

	<b>Present</b>	<b>Absent</b>
Commissioner Slavik, District 1	X	
Commissioner Atkins, District 2	X	
Commissioner Halverson, District 3	X	
Commissioner Droste, District 4	X	
Commissioner Workman, District 5		X
Commissioner Holberg, District 6		X
Commissioner Hamann-Roland, District 7		X
Commissioner Velikolangara, At Large		X

### **CDA staff in attendance:**

Tony Schertler, Executive Director  
Kari Gill, Deputy Executive Director  
Sara Swenson, Director of Administration and Communications  
Lisa Alfson, Director of Community & Economic Development  
Maggie Dykes, Assistant Director of Community & Economic Development  
Kathy Kugel, Housing Finance Manager  
Emily Anderson, Community Development Coordinator  
Lisa Hohenstein, Director of Housing Assistance  
Anna Judge, Director of Property Management  
Angela Nielsen, Program Manager

### **Others in attendance:**

Lucie O'Neill, Dakota County Attorney's Office  
Brian Wisdorf, Dakota County Attorney's Office  
Marti Fischbach, Dakota County  
Paul Cassidy, Stinson & Associates  
Lisa Lusk, 360 Communities  
Ann Averill, 360 Communities  
Chelsea Hibbard, 360 Communities

### **AUDIENCE**

*No audience members addressed the Board*

### **OATHS OF OFFICE**

*Commissioner Halverson read her Oath of Office and was seated on the CDA Board of Commissioners.*

24-6796

**Electing The Secretary For The Dakota County Community Development Agency Board of Commissioners**

WHEREAS, nominations were accepted for the Office of Secretary; and

WHEREAS, Commissioner Atkins placed in nomination Commissioner Halverson; and

WHEREAS, no further nominations were placed; and

WHEREAS, Commissioner Slavik closed nominations for the office of Secretary; and

WHEREAS, Commissioner Atkins moved the ballot and Commissioner Droste seconded and a vote was taken on Commissioner Halverson acting as Secretary and the motion was carried.

NOW, THEREFORE, BE IT RESOLVED by the Dakota County Community Agency Board of Commissioners, that Commissioner Halverson serve as Secretary for the calendar year 2024.

**Motion: Commissioner Atkins**

**Second: Commissioner Droste**

Ayes: 4

Nays: 0

Abstentions: 0

	<b>Yes</b>	<b>No</b>	<b>Absent</b>	<b>Abstain</b>
Slavik	X			
Atkins	X			
Halverson	X			
Droste	X			
Workman			X	
Holberg			X	
Hamann-Roland			X	
Velikolangara			X	

**APPROVAL OF AGENDA AND MEETING MINUTES**

**24-6797 Approval Of Agenda And Meeting Minutes**

BE IT RESOLVED by the Dakota County Community Development Agency Board of Commissioners, that the agenda for the February 28, 2024 Special CDA Board meeting be approved as written.

BE IT FURTHER RESOLVED by the Dakota County Community Development Agency Board of Commissioners, that the minutes for the January 24, 2024 Annual and Regular Board meeting be approved as written.

**Motion: Commissioner Droste**

**Second: Commissioner Halverson**

Ayes: 4

Nays: 0

Abstentions: 0

	<b>Yes</b>	<b>No</b>	<b>Absent</b>	<b>Abstain</b>
Slavik	X			
Atkins	X			
Halverson	X			
Droste	X			
Workman			X	
Holberg			X	
Hamann-Roland			X	
Velikolangara			X	

**FEDERAL PUBLIC HOUSING AND HOUSING CHOICE VOUCHER AGENDA**

NO ITEMS

**CONSENT AGENDA**

**24-6798 Approval Of Record Of Disbursements – January 2024**

BE IT RESOLVED by the Dakota County Community Development Agency Board of Commissioners, That the January 2024 Record of Disbursements is approved as written.

**24-6799 Award Contract For Access Control Replacement At Carmen Court (Inver Grove Heights) and The Dakotah (West St. Paul)**

WHEREAS, formal bids were received on January 5, 2024 for the Access Control project at Carmen Court and The Dakotah senior housing developments in Dakota County; and

WHEREAS, Assured Security submitted a responsive bid of \$218,424.12; and

WHEREAS, the contract is being recommended by Property management due to immediate need and the contractor is being recommended on their prior experience on similar projects with the CDA; and

WHEREAS, funds are available in the current Extraordinary Maintenance budget for this project; and

NOW, THEREFORE, BE IT RESOLVED by the Dakota County Community Development Agency Board of Commissioners, That the Deputy Executive Director be authorized to sign a construction contract with Assured Security in the amount of \$218,424.12; and

BE IT FURTHER RESOLVED, that the Deputy Executive Director be authorized to approve change orders in an amount not to exceed \$10,921.

24-800

**Establish The Date For A Public Hearing On Qualified Allocation Plan For The Allocation Of 2025 Low Income Housing Tax Credits**

WHEREAS, pursuant to Section 42 of the Internal Revenue Code of 1986, as amended (“Code”), and Minnesota Statutes Sections 462A.221 through 462A.225, the Dakota County Community Development Agency (CDA is a housing credit agency authorized to allocate low income housing tax credits (“Tax Credits”); and

WHEREAS, Section 42 of the Code, requires the CDA to hold a public hearing prior to adopting or amending a Qualified Allocation Plan (QAP) detailing the basis for allocating Tax Credits among applicants; and

WHEREAS, the CDA proposes to adopt a QAP regarding the allocation of Tax Credits using 2025 volume cap and the allocation of any “automatic” tax credits attributable to private activity bonds issued after the adoption of the plan (“2025 Plan”).

NOW, THEREFORE, BE IT RESOLVED by the Dakota County Community Development Agency Board of Commissioners, That:

1. A public hearing regarding the adoption of the 2025 Plan will be held by the CDA Board on March 27, 2024 at or after 1:00 p.m. at the CDA’s office.
2. Staff are authorized and directed to cause notice of such public hearing to be published in a newspaper of general circulation in the CDA’s jurisdiction not less than ten (10) days prior to such hearing.

24-6801

**Approval Of Amendments To Personnel Policy #295 – Flex Leave Donation**

WHEREAS, the Dakota County CDA’s Administration Department regularly reviews policies and procedures and makes recommendations in order to comply with Federal, State and local laws and best practices in human resources; and

WHEREAS, updates have been made to Policy #295 – Flex Leave Donation.

NOW, THEREFORE, BE IT RESOLVED by the Dakota County Community Development Agency Board of Commissioners, that the amendments to Personnel Policy #295 – Flex Leave Donation is hereby approved.

BE IT FURTHER RESOLVED, the Human Resources Manager is authorized to implement the policies and communicate the changes to CDA staff.

**Motion: Commissioner Atkins**

**Second: Commissioner Droste**

Ayes: 4

Nays: 0

Abstentions: 0

	<b>Yes</b>	<b>No</b>	<b>Absent</b>	<b>Abstain</b>
Slavik	X			
Atkins	X			
Halverson	X			

Droste	X	
Workman		X
Holberg		X
Hamann-Roland		X

**REGULAR AGENDA**

24-6802 **Public Hearing To Receive Comments And Approve Conveyance Of Land To The Denmark Trail Workforce Housing Limited Partnership (Denmark Trail Townhomes, Farmington)**

*Kari Gill presented and answered questions.*

WHEREAS, the Dakota County Community Development Agency (CDA), pursuant to Minnesota Statutes, Sections 469.001 through 469.047, is authorized to exercise its powers to undertake housing development projects to provide for the construction of housing for low- and moderate-income persons and their families; and

WHEREAS, the CDA desires to promote the development by the Denmark Trail Workforce Housing Limited Partnership, of which the CDA is the sole general partner (the "Partnership") of a housing development project comprised of a 40-unit townhome project housing which has received an allocation of 2023 and 2024 low income housing tax credits; and

WHEREAS, the CDA has purchased and made certain capital expenditures with respect to the real property legally described as follows: That part of the West half of the Northwest Quarter (W ½ of NW ¼) in Section 6, Township 113, Range 19, Dakota County, Minnesota, lying Northerly of the Northerly right-of-way of Chicago, Milwaukee, St Paul and Pacific Railroad, except the two parcels described as follows: Parcel A: The East 597.97 feet of the West half of the Northwest Quarter (W ½ of NW ¼) in Section 6, Township 113, Range 19, Dakota County Minnesota, lying Northerly of the Northerly right-of-way of Chicago, Milwaukee, St Paul and Pacific Railroad. Parcel B: The North 1338.34 feet of the West half of the Northwest Quarter (W ½ of NW ¼) in Section 6, Township 113, Range 19, Dakota County, Minnesota, lying West of the East 597.97 feet thereof and to be re-platted as Lot 1, Block 1 Denmark Housing Addition of the city of Farmington (the "Land"), which the CDA proposes to contribute to the Partnership as the CDA's capital contribution; and

WHEREAS, in accordance with the provisions of Minnesota Statutes, Section 469.029, Subdivision 2, on the date hereof, following publication of notice, the CDA held a public hearing regarding the conveyance of the Land of the Partnership; and

WHEREAS, the CDA has determined that it is in the best interest of the public health, safety, and welfare that it convey the Land to the Partnership as the CDA's capital contribution of the Partnership.

NOW, THEREFORE, BE IT RESOLVED by the Dakota County Community Development Agency Board of Commissioners, as follows:

1. The conveyance of the Land to the Partnership is hereby approved.
2. The Executive Director of the CDA is hereby authorized and directed to

execute such documents and take such actions as are necessary or convenient to convey the Land to the Partnership.

*Public Hearing:*

**Motion: Commissioner Droste**

**Second: Commissioner Halverson**

Ayes: 4

Nays: 0

Abstentions: 0

	<b>Yes</b>	<b>No</b>	<b>Absent</b>	<b>Abstain</b>
Slavik	X			
Atkins	X			
Halverson	X			
Droste	X			
Workman			X	
Holberg			X	
Hamann-Roland			X	

*Resolution:*

**Motion: Commissioner Atkins**

**Second: Commissioner Droste**

Ayes: 4

Nays: 0

Abstentions: 0

	<b>Yes</b>	<b>No</b>	<b>Absent</b>	<b>Abstain</b>
Slavik	X			
Atkins	X			
Halverson	X			
Droste	X			
Workman			X	
Holberg			X	
Hamann-Roland			X	

24-6803

**Approval Of Contingent HOME American Rescue Plan Award To 360 Communities Lewis House Shelter (Eagan)**

*Lisa Alfson presented. Staff from the CDA and 360 Communities answered questions.*

WHEREAS, the counties of Anoka, Dakota, Ramsey, and Washington and the City of Woodbury (referred to together as the "HOME" Consortium") created a consortium under the Title I of the Cranston-Gonzalez National Affordable Housing Act (ACT) for purposes of acting as a participating jurisdiction under the Act and HOME Investment Partnerships Program Final Rule 24 CFR Part 92 which as amended sets forth regulations governing the applicability and use of funds under Title II (HOME Program); and

WHEREAS, Dakota County is designated as the Lead Agency for the HOME Consortium and is responsible for certain administrative and reporting functions of the HOME Program as required by the U.S. Department of Housing and Urban Development (HUD); and



WHEREAS, Dakota County enters into a subrecipient agreement annually with the Dakota County Community Development Agency (CDA) to administer the HUD entitlement programs, including HOME, and has delegated to the CDA the rights, duties and obligations to disburse, monitor and administer HUD entitlement funds, in a manner consistent with the terms and conditions imposed on the CDA by said agreement, Dakota County resolution, and HUD and programmatic regulations; and

WHEREAS, the American Rescue Plan (ARP) Act of 2021 was signed into law on March 11, 2021, and appropriated \$5 billion in ARP funds to be administered through the HOME Program at the local level to respond to the COVID-19 pandemic; and

WHEREAS, the HOME Consortium HOME-ARP allocation is \$8,762,411, and the Dakota County portion is \$3,253,282; and

WHEREAS, the HOME-ARP funds can only be used for four activities; acquisition and development of non-congregate shelter units, development and support of affordable housing, tenant-based rental assistance, and provision of supportive services; and

WHEREAS, the HOME-ARP activities must primarily benefit four qualifying populations, including individuals and families who are homeless; at risk of homelessness; fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking; and other vulnerable populations, including individuals and families with incomes at or below 30 percent Area Median Income; and

WHEREAS, Dakota County entered into a funding approval agreement with HUD to execute and implement the HOME-ARP Program in September 2021; and

WHEREAS, the Dakota County HOME-ARP plan was approved by the Dakota County Board of Commissioners on May 24, 2022 (Resolution No. 22-219), and by HUD on November 23, 2022 with two activities identified for use of HOME-ARP funds within Dakota County, 1) support for non-congregate shelter, with a domestic violence preference, and 2) development and support of affordable housing; and

WHEREAS, on or before January 19, 2024, the CDA received one response to the HOME-ARP Request For Proposals from 360 Communities requesting \$3,000,000 HOME-ARP funds to assist with the development of a non-congregate shelter for individuals and families fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking; and

WHEREAS, 360 Communities application was reviewed, evaluated, and scored by staff and included a meeting with leadership staff of 360 Communities to better understand the proposed shelter; and

WHEREAS, CDA staff is supportive of the 360 Communities proposed shelter and recommends awarding \$3,000,000 of HOME-ARP funds to the project, contingent upon successful completion of the environmental review, finalizing grant agreement terms, and securing necessary financing to complete the project.

NOW, THEREFORE, BE IT RESOLVED by the Dakota County Community Development Agency Board of Commissioners, That:

1. The CDA hereby approves an award of HOME-ARP Program funds in the amount of \$3,000,000 for the construction of the non-congregant Lewis House Shelter.
2. Staff is authorized to prepare, execute, and deliver all documentation necessary or convenient to provide for the commitment of HOME-ARP Program funds based on findings made in accordance with the requirements of the HOME-ARP Program. In addition, staff is authorized to determine award contingencies for the project based on the characteristics of the development, financial feasibility, project underwriting, or other factors in accordance with the HOME-ARP Program.
3. Staff is authorized to prepare, execute, and deliver all documentation necessary or convenient to provide for the commitment of the HOME-ARP Program funds.
4. The Executive Director of the Dakota County CDA is authorized to execute said documents upon such release.

**Motion: Commissioner Halverson**

**Second: Commissioner Droste**

Ayes: 4

Nays: 0

Abstentions: 0

	<b>Yes</b>	<b>No</b>	<b>Absent</b>	<b>Abstain</b>
Slavik	X			
Atkins	X			
Halverson	X			
Droste	X			
Workman			X	
Holberg			X	
Hamann-Roland			X	

INFO **Discussion of Proposed Changes To The 2025 Qualified Allocation Plan For Low Income Housing Tax Credits**  
*Kathy Kugel presented.*

INFO **Legislative Update**  
*Paul Cassidy and Tony Schertler presented.*

INFO **Executive Director Update**  
*Tony Schertler presented.*

**INFORMATION**

**ADJOURNMENT**

24-6804 **Adjournment**

BE IT RESOLVED, that the Dakota County Community Agency Board of Commissioners hereby adjourns until Wednesday, March 27, 2024.

**Motion: Commissioner Halverson**

**Second: Commissioner Droste**

Ayes: 4

Nays: 0

Abstentions: 0

	<b>Yes</b>	<b>No</b>	<b>Absent</b>	<b>Abstain</b>
Slavik	X			
Atkins	X			
Halverson	X			
Droste	X			
Workman			X	
Holberg			X	
Hamann-Roland			X	
Velikolangara			X	

*The CDA Board meeting adjourned at 3:15 p.m.*

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Clerk to the Board



# Board of Commissioners

## Request for Board Action

Meeting Date: March 27, 2024

Agenda #: 4A

**DEPARTMENT:** Finance

**FILE TYPE:** Federal - Consent

**TITLE**

**Approval Of Amendment To The Fiscal Year Ended June 30, 2023 HUD Public Housing Operating Budget**

**PURPOSE/ACTION REQUESTED**

Approve amendment to the Fiscal Year Ended June 30, 2023 HUD Public Housing Operating Budget.

**SUMMARY**

Pursuant to CDA budget policy, the Executive Director is permitted to approve the transfer of budget authority between controlled line-item expenditures up to established limits. In addition, any increase in total spending generally requires approval of the CDA Board of Commissioners.

- Budgetary Transfers: As required by CDA budget policy, a listing of all budget amendments approved by the Executive Director shall be submitted to the CDA Board of Commissioners. The listing reports \$4,445 in transfers between controlled line-item expenditures that were approved by the Executive Director during the Fiscal Year Ended June 30, 2023.

Date	Program	Budget Category	Amount	Description
05/10/23	Public Housing	Administrative	+ \$4,445	PH-Scattered Sites: Correction to the travel/conference budget
		Ordinary Maintenance	- \$4,445	PH-Scattered Sites: Contract-Cleaning & Custodial

**RECOMMENDATION**

Staff recommends approval of these transfers of budget authority between controlled line-item expenditures. They are being done in accordance with the requirements of CDA budget policy.

**EXPLANATION OF FISCAL/FTE IMPACTS**

The budget amendment being reported as transfers of budget authority between controlled line-item expenditures does not increase total spending for the Fiscal Year Ended June 30, 2023.

- None   
  Current budget   
  Other   
  Amendment Requested   
  New FTE(s) requested

**RESOLUTION**

WHEREAS, the Dakota County CDA has adopted a HUD Public Housing operating budget for the Fiscal Year Ended June 30, 2023; and

WHEREAS, CDA budget policy requires that a listing of budget transfers approved by the Executive Director be presented to the Board of Commissioners; and

NOW, THEREFORE BE IT RESOLVED by the Dakota County Community Development Agency Board of Commissioners, That the budget amendment approved by the Executive Director for the Fiscal Year Ended June 30, 2023 pursuant to the requirements of CDA budget policy is affirmed by the CDA Board.

**PREVIOUS BOARD ACTION**

22-6551; 6/21/2022

**ATTACHMENTS**

None

**BOARD GOALS**

- Focused Housing Programs
- Development/Redevelopment
- Collaboration
- Financial Sustainability
- Operational Effectiveness

**CONTACT**

Department Head: Ken Bauer, Finance Director

Author: Chris Meyer, Assistant Director of Finance



# Board of Commissioners

## Request for Board Action

Meeting Date: March 27, 2024

Agenda #: 4B

**DEPARTMENT:** Finance

**FILE TYPE:** Federal - Consent

### TITLE

**Approval Of The Write-Off Of Non-Expendable Equipment For The Fiscal Year Ended June 30, 2023**

### PURPOSE/ACTION REQUESTED

Approve the write-off of non-expendable equipment for the Fiscal Year Ended June 30, 2023.

### SUMMARY

Each year, the CDA reconciles the subsidiary non-expendable equipment records to the accounting records. As a result, it is necessary each year to routinely write-off certain items of equipment that have become damaged, outdated, or are no longer in the CDA's possession.

During the reconciliation process for the fiscal year ended June 30, 2023, the following item of equipment was identified as needing to be removed (written off) from the CDA's subsidiary equipment listing and general ledger.

Equipment	Serial No.	Model	Date Acq.	Cost	Property	Reason for Disposal
Security Camera System - CLM		Bosch 600 Series	1-Jun-04	\$17,430.26	Public Housing	Item was replaced

### RECOMMENDATION

Staff recommends approval of this write-off of non-expendable equipment. This is being done in accordance with the requirements of the Capital Asset Policy.

### EXPLANATION OF FISCAL/FTE IMPACTS

None.

None     Current budget     Other     Amendment Requested     New FTE(s) requested

### RESOLUTION

WHEREAS, during the CDA's year-end reconciliation process, the Finance Department noted a certain item of non-expendable equipment had become damaged, outdated or is no longer in the CDA's possession; and

WHEREAS, this item of non-expendable equipment should be removed from the CDA's accounting and property records.

NOW, THEREFORE BE IT RESOLVED by the Dakota County Community Development Agency Board of Commissioners, That the non-expendable equipment totaling \$17,430.26 be written off as of June 30, 2023.

**PREVIOUS BOARD ACTION**

None.

**ATTACHMENTS**

None.

**BOARD GOALS**

- Focused Housing Programs
- Collaboration
- Development/Redevelopment
- Financial Sustainability
- Operational Effectiveness

**CONTACT**

Department Head: Ken Bauer, Finance Director

Author: Chris Meyer, Assistant Director of Finance



# Board of Commissioners

## Request for Board Action

Meeting Date: March 27, 2024

Agenda #: 4C

**DEPARTMENT:** Housing Assistance

**FILE TYPE:** Federal - Consent

### TITLE

**Approval Of Amendments To The Housing Assistance Department Administrative Plans**

### PURPOSE/ACTION REQUESTED

Approve amendments to the Housing Assistance Department Administrative Plans.

### SUMMARY

The Dakota County Community Development Agency (CDA), as the administrator of the federal Housing Choice Voucher (HCV) program, is required to adopt and maintain an administrative plan to delineate the mandatory and discretionary policies used to govern the program. Periodically, the plan needs to be updated as the U.S. Department of Housing and Urban Development (HUD) adopts new or revised regulations and as the agency determines a need to revise its policies.

On July 29, 2016, the Housing Opportunity Through Modernization Act (HOTMA) was signed into law making changes to the United States Housing Act of 1937, particularly those affecting income calculations and reviews. The final rule's effective date was January 1, 2024; however, the system changes required by HOTMA are not currently available.

The CDA must set its own compliance date no later than January 1, 2025; however, the CDA must have its administrative plans updated in conjunction with the Annual PHA Plan. To comply with HUD's policy requirements, Attachment A is an addendum to the CDA's Administrative Plan which establishes the policies required for all transactions.

### RECOMMENDATION

Staff recommends approval of the amendments to the Housing Assistance Department Administrative Plans.

### EXPLANATION OF FISCAL/FTE IMPACTS

None.

None     Current budget     Other     Amendment Requested     New FTE(s) requested

### RESOLUTION

WHEREAS, the Dakota County Community Development Agency (CDA), as an administrator of rental assistance programs, is required to adopt and maintain an administrative plan to delineate the policies used to govern the programs; and

WHEREAS, the Dakota County CDA has made updates to the Housing Assistance Department Administrative Plans to comply with the U.S. Department of Housing and Urban Development's Housing Opportunity Through Modernization Act.



NOW, THEREFORE BE IT RESOLVED by the Dakota County Community Development Agency Board of Commissioners, That the amendments to the Housing Assistance Department Administrative Plans are approved.

**PREVIOUS BOARD ACTION**

23-6772; 12/19/2023

**ATTACHMENTS**

Attachment A: Housing Assistance Department Administrative Plans HOTMA Addendum

**BOARD GOALS**

- Focused Housing Programs
- Development/Redevelopment
- Collaboration
- Financial Sustainability
- Operational Effectiveness

**CONTACT**

Department Head: Lisa Hohenstein, Director of Housing Assistance  
Author: Lisa Hohenstein

## HUD HCV Guidebook

In November 2019 HUD began issuing a new version of the HCV Guidebook chapter-by-chapter. Unlike the previous version of the HCV Guidebook in which chapters were numbered, the new version of the guidebook includes chapter names, but no numbers. As the new version of the guidebook has not yet been fully released, and since the previous version of the guidebook contains guidance not found in the new version, the [model](#)-policy cites both versions of the guidebook. Therefore, where the HCV Guidebook is cited in the [model](#)-policy, the citation will make a distinction between the “old” and “new” versions of the guidebook. The “old” version of the guidebook will continue to be cited as *HCV GB* with a chapter/page reference (example: HCV GB, p. 5-4). If HUD has also released a new chapter on the same topic with information that either adds new information or updates existing information from the previous guidebook, the new guidebook will be cited as *New HCV GB* with a chapter title and page reference (example: New HCV GB, *Payment Standards*, p. 11). [On September 29, 2023, HUD issued Notice PIH 2023-27 to implement sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 \(HOTMA\). The notice supersedes relevant portions of the guidebook, specifically the chapters on eligibility, denials, and annual reexaminations and interim reexaminations. Where chapters have not been altered by the HOTMA implementation notice, the model policy continues to cite the HCV Guidebook.](#)

Document and Location
Code of Federal Regulations <a href="https://www.ecfr.gov/">https://www.ecfr.gov/</a>
Earned Income Disregard FAQ <a href="https://www.hud.gov/program_offices/public_indian_housing/phr/about/ao_faq_eid">https://www.hud.gov/program_offices/public_indian_housing/phr/about/ao_faq_eid</a>
Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Final Rule <a href="http://edocket.access.gpo.gov/2008/pdf/E8-19435.pdf">http://edocket.access.gpo.gov/2008/pdf/E8-19435.pdf</a>
Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data <a href="https://www.hud.gov/sites/documents/EIVSECGUIDEPHA.PDF">https://www.hud.gov/sites/documents/EIVSECGUIDEPHA.PDF</a>
Executive Order 11063 <a href="https://www.archives.gov/federal-register/codification/executive-order/11063.html">https://www.archives.gov/federal-register/codification/executive-order/11063.html</a>

<p>Federal Register  <a href="https://www.federalregister.gov/">https://www.federalregister.gov/</a></p>
<p>Housing Choice Voucher Program Guidebook (7420.10G), Updated Chapters  <a href="https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/guidebook">https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/guidebook</a></p>
<p>HOTMA Final Rule  <a href="https://www.federalregister.gov/documents/2023/02/14/2023-01617/housing-opportunity-through-modernization-act-of-2016-implementation-of-sections-102-103-and-104?utm_campaign=subscription+mailing+list&amp;utm_source=federalregister.gov&amp;utm_medium=email">https://www.federalregister.gov/documents/2023/02/14/2023-01617/housing-opportunity-through-modernization-act-of-2016-implementation-of-sections-102-103-and-104?utm_campaign=subscription+mailing+list&amp;utm_source=federalregister.gov&amp;utm_medium=email</a></p>
<p>HUD-50058 Instruction Booklet  <a href="https://www.hud.gov/sites/documents/FORM50058INSTRUCTBOOKLET.PDF">https://www.hud.gov/sites/documents/FORM50058INSTRUCTBOOKLET.PDF</a> HOTMA  Implementation Notice, PIH 2023-27  <a href="https://www.hud.gov/sites/dfiles/OCHCO/documents/2023-27pihn.pdf">https://www.hud.gov/sites/dfiles/OCHCO/documents/2023-27pihn.pdf</a></p>
<p>Joint Statement of the Department of Housing and Urban Development and the Department of Justice, issued May 17, 2004  <a href="https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf">https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf</a></p>
<p>Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007  <a href="https://www.lep.gov/guidance/HUD_guidance_Jan07.pdf">https://www.lep.gov/guidance/HUD_guidance_Jan07.pdf</a></p>
<p>Notice PIH 2010-26 (HA), Nondiscrimination and Accessibility Notice  <a href="https://www.hud.gov/sites/documents/DOC_8993.PDF">https://www.hud.gov/sites/documents/DOC_8993.PDF</a></p>
<p>Notice PIH 2017-12, Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System  <a href="https://www.hud.gov/sites/documents/PIH2017-12EIVNOTICE.PDF">https://www.hud.gov/sites/documents/PIH2017-12EIVNOTICE.PDF</a></p>
<p>Notice PIH 2018-24, Verification of Social Security Numbers (SSNs) and Social Security (SS) and Supplemental Security Income (SSI) Benefits; and Effective Use of the Enterprise Income Verification (EIV) System's Identity Verification Report  <a href="https://www.hud.gov/sites/dfiles/PIH/documents/PIH_2018-24_EIV_SSN_Notice_FINAL.pdf">https://www.hud.gov/sites/dfiles/PIH/documents/PIH_2018-24_EIV_SSN_Notice_FINAL.pdf</a></p>
<p>OMB Circular A-133  <a href="https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A133/a133.pdf">https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A133/a133.pdf</a></p>
<p>Project Based Voucher Program; Final Rule  <a href="http://www.gpo.gov/fdsys/pkg/FR-2005-10-13/pdf/05-20035.pdf">http://www.gpo.gov/fdsys/pkg/FR-2005-10-13/pdf/05-20035.pdf</a></p>
<p>VAWA Final Rule  <a href="http://www.gpo.gov/fdsys/pkg/FR-2010-10-27/pdf/2010-26914.pdf">http://www.gpo.gov/fdsys/pkg/FR-2010-10-27/pdf/2010-26914.pdf</a></p>
<p>VAWA Resources  <a href="https://www.hud.gov/vawa">https://www.hud.gov/vawa</a></p>

## **PART II: THE HOUSING CHOICE VOUCHER (HCV) PROGRAM**

### **1-II.A. OVERVIEW AND HISTORY OF THE PROGRAM**

The intent of this section is to provide the public and staff with information related to the overall operation of the program. There have been many changes to the program since its inception in 1974 and a brief history of the program will assist the reader to better understand the program.

The United States Housing Act of 1937 (the “Act”) is responsible for the birth of federal housing program initiatives. The Act was intended to provide financial assistance to states and cities for public works projects, slum clearance and the development of affordable housing developments for low-income residents.

The Housing and Community Development (HCD) Act of 1974 created a new federally assisted housing program – the Section 8 Existing program (also known as the Section 8 Certificate program). The HCD Act represented a significant shift in federal housing strategy from locally owned public housing to privately owned rental housing.

Under the Certificate program, federal housing assistance payments were made directly to private owners of rental housing, where this housing was made available to lower-income families. Eligible families were able to select housing in the private rental market. Assuming that the housing met certain basic physical standards of quality (“housing quality standards”) and was within certain HUD-established rent limitations (“fair market rents”), the family would be able to receive rental assistance in the housing unit. Family contribution to rent was generally set at 30 percent of the family’s adjusted income, with the remainder of the rent paid by the program.

Another unique feature of the Certificate program was that the rental assistance remained with the eligible family, if the family chose to move to another privately-owned rental unit that met program requirements (in contrast to the public housing program where the rental assistance remains with the unit, should the family decide to move). Consequently, the Certificate program was characterized as tenant-based assistance, rather than unit-based assistance.

The Housing and Community Development (HCD) Act of 1987 authorized a new version of tenant-based assistance – the Section 8 Voucher program. The Voucher program was very similar to the Certificate program in that eligible families were able to select housing in the private rental market and receive assistance in that housing unit.

However, the Voucher program permitted families more options in housing selection. Rental housing still had to meet the basic housing quality standards, but there was no fair market rent limitation on rent. In addition, family contribution to rent was not set at a limit of 30 percent of adjusted income. Consequently, depending on the actual rental cost of the unit selected, a family might pay more or less than 30 percent of their adjusted income for rent.

From 1987 through 1999, public housing agencies managed both the Certificate and Voucher tenant-based assistance programs, with separate rules and requirements for each. From 1994 through 1998, HUD published a series of new rules, known as “conforming” rules, to more closely combine and align the two similar housing programs, to the extent permitted by the law.

In 1998, the Quality Housing and Work Responsibility Act (QHWRA) – also known as the Public Housing Reform Act – was signed into law. QHWRA eliminated all statutory differences between the Certificate and Voucher tenant-based programs and required that the two programs

be merged into a single tenant-based assistance program, now known as the Housing Choice Voucher (HCV) program.

The HCV program was modeled closely on the pre-merger Voucher program. However, unlike the pre-merger Voucher program, the HCV program requires an assisted family to pay at least 30 percent of adjusted income for rent.

The transition of assistance from the Certificate and Voucher programs to the new HCV program began in October 1999. By October 2001, all families receiving tenant-based assistance were converted to the HCV program.

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

## Chapter 3

### ELIGIBILITY

#### INTRODUCTION

The PHA is responsible for ensuring that every individual and family admitted to the HCV program meets all program eligibility requirements. This includes any individual approved to join the family after the family has been admitted to the program. The family must provide any information needed by the PHA to confirm eligibility and determine the level of the family's assistance.

To be eligible for the HCV program:

- The applicant family must:
  - Qualify as a family as defined by HUD and the PHA.
  - Have income at or below HUD-specified income limits.
  - Qualify on the basis of citizenship or the eligible immigrant status of family members.
  - Provide social security number information for household members as required.
  - Consent to the PHA's collection and use of family information as provided for in PHA-provided consent forms.
  - Not currently be receiving a duplicative subsidy.
  - Meet net asset and property ownership restriction requirements.
- The PHA must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or the PHA.

This chapter contains three parts:

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

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

Part III: Denial of Assistance. This part covers factors related to an applicant's past or current conduct (e.g., criminal activity) that can cause the PHA to deny assistance as well as the asset limitation for HCV.

## PART II: BASIC ELIGIBILITY CRITERIA

### 3-II.A. INCOME ELIGIBILITY AND TARGETING

#### Income Limits

HUD establishes income limits for all areas of the country and publishes them annually in the *Federal Register*. They are based upon estimates of median family income with adjustments for family size. The income limits are used to determine eligibility for the program and for income targeting purposes as discussed in this section.

#### **Definitions of the Income Limits [24 CFR 5.603(b)]**

*Low-income family.* A family whose annual income does not exceed 80 percent of the median income for the area, adjusted for family size.

*Very low-income family.* A family whose annual income does not exceed 50 percent of the median income for the area, adjusted for family size.

*Extremely low-income family.* A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area, whichever number is higher.

Area median income is determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30, 50, or 80 percent of the median income for an area if HUD finds that such variations are necessary because of unusually high or low family incomes.

#### **Using Income Limits for Eligibility [24 CFR 982.201 and Notice PIH 2023-27]**

Income limits are used for eligibility only at admission. Income eligibility is determined by comparing the annual income of an applicant to the applicable income limit for their family size. Income and net family assets of household members are excluded when determining income eligibility; however, household members are considered for purposes of unit size and subsidy standards. In order to be income eligible, an applicant family must be one of the following:

- A *very low-income* family
- A *low-income* family that has been “continuously assisted” under the 1937 Housing Act. A family is considered to be continuously assisted if the family is already receiving assistance under any 1937 Housing Act program at the time the family is admitted to the HCV program [24 CFR 982.4; 24 CFR 982.201(b)]

PHA Policy

The PHA will consider a family to be continuously assisted if the family was leasing a unit under any 1937 Housing Act program at the time they were selected from the PHA's waiting list.

- A low-income family that qualifies for voucher assistance as a non-purchasing household living in HOPE 1 (public housing homeownership), HOPE 2 (multifamily housing homeownership) developments, or other HUD-assisted multifamily homeownership programs covered by 24 CFR 248.173

### **3-III.C. RESTRICTION ON ASSISTANCE BASED ON ASSETS [24 CFR 5.618]**

There are two circumstances under which a family is ineligible to receive assistance based on asset ownership.

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

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

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

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

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

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

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

PHA Policy

The PHA defines *not sufficient for the size of the family* as being overcrowded based on the PHA's subsidy standards in Chapter 5 of this policy.

- Is geographically located so as to be a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by the PHA or owner);
- Is not safe to reside in because of the physical condition of the property (e.g., property's physical condition poses a risk to the family's health and safety and the condition of the property cannot be easily remedied); or
- Is not a property that a family may reside in under the state or local laws of the jurisdiction where the property is located.

## Chapter 6

### INCOME AND SUBSIDY DETERMINATIONS

[24 CFR Part 5, Subparts E and F; 24 CFR 982]

#### INTRODUCTION

A family's income determines eligibility for assistance and is also used to calculate the family's payment and the PHA's subsidy. The PHA will use the policies and methods described in this chapter to ensure that only eligible families receive assistance and that no family pays more or less than its obligation under the regulations. This chapter describes HUD regulations and PHA policies related to these topics in three parts as follows:

Part I: Annual Income. HUD regulations specify the sources of income ~~to include and which are excluded from the family's annual income. to arrive at a family's annual income.~~ These requirements and PHA policies for calculating annual income are found in Part I.

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

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

Part IV: Calculating Family Share and PHA Subsidy. This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining PHA subsidy and required family payment.

#### PART I: ANNUAL INCOME

##### 6-I.A. OVERVIEW [24 CFR 5.609]

~~The general regulatory definition of *annual income* shown below is from 24 CFR 5.609.~~

~~5.609 Annual income.~~

~~(a) Annual income means all amounts, monetary or not, which~~

~~(1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or~~



~~(2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and  
(3) Which are not specifically excluded in paragraph [5.609(e)].~~

~~(4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access. Annual income includes:~~

- ~~• All amounts, not specifically excluded in 24 CFR 5.609(b);~~
- ~~• All amounts received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse;~~
- ~~• Unearned income by or on behalf of each dependent who is under 18 years of age; and~~
- ~~• Imputed returns of an asset based on the current passbook savings rate, as determined by HUD, when the value of net family assets exceeds \$50,000 (which amount HUD will adjust annually) and the actual returns from a given asset cannot be calculated.~~

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

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

Annual income also includes all actual anticipated income from assets (provided the income is not otherwise excluded) even if the asset itself is excluded from net family assets [Notice PIH 2023-27]. 24 CFR 5.603(b)(1) describes HUD regulations ~~establish policies~~ for treating specific types of income and assets. The full texts of those portions of the regulations are provided in exhibits at the end of this chapter as follows:

- ~~• Annual Income ~~Inclusions~~ Full Definition (Exhibit 6-1)~~
- ~~• Annual Income Exclusions (Exhibit 6-2)~~
- ~~• Treatment of Family Assets (Exhibit 6-23)~~
- ~~• Earned Income Disallowance for Persons with Disabilities (Exhibit 6-4)~~
- The Effect of Welfare Benefit Reduction (Exhibit 6-35)

Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. ~~HUD regulations present income inclusions and exclusions separately [24 CFR 5.609(b) and 24 CFR 5.609(e)]. In this plan, however, the discussions of income inclusions and exclusions are integrated by topic (e.g., all policies affecting earned income are discussed together in section 6-I.D).~~ Verification requirements for annual income are discussed in Chapter 7.

## 6-I.B. HOUSEHOLD COMPOSITION AND INCOME

### Overview

Income received by all family members must be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in family composition in accordance with HUD regulations and PHA policies in Chapter 11. The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.

Summary of Income Included and Excluded by Person	
Live-in aides	Income from all sources <u>(both earned and unearned)</u> is excluded [24 CFR 5.609( <del>be</del> )( <del>85</del> )].
Foster child or foster adult	Income from all sources <u>(both earned and unearned)</u> is excluded [24 CFR 5.609( <del>be</del> )( <del>82</del> )].
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)].
<del>Children under 18 years of age</del> <u>Minors</u>	<del>Employment</del> Earned income <u>of children under 18 years of age</u> is excluded [24 CFR 5.609( <del>be</del> )( <del>34</del> )]. All other sources of <u>unearned</u> income, except those specifically excluded by the regulations, are included [24 CFR 5.609(a)].
Full-time students 18 years of age or older (not head, spouse, or cohead)	<del>Employment</del> Earned income <u>above \$480/year in excess of the dependent deduction</u> is excluded [24 CFR 5.609( <del>be</del> )( <del>144</del> )]. All other sources of <u>unearned</u> income, except those specifically excluded by the regulations, are included.

## 6-I.C. ~~ANTICIPATING~~ CALCULATING ANNUAL INCOME

The methodology used for calculating income differs depending on whether income is being calculated at initial occupancy, interim reexamination, or at annual reexamination. However, income from assets is always anticipated regardless of certification type.

### Anticipating Annual Income [24 CFR 5.609(c)(1)]

At initial occupancy and for an interim reexamination of family income, the PHA is required to use anticipated income (current income) for the upcoming 12-month period following the new admission or interim reexamination effective date. The PHA is required to count all income “anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date” [24 CFR 5.609(a)(2)]. Policies related to verifying income are found in Chapter 7 ~~anticipating annual income are provided below.~~

### ~~Basis of Annual Income Projection~~

~~The PHA generally will use current circumstances to determine anticipated income for the coming 12-month period. HUD authorizes the PHA to use other than current circumstances to anticipate income when:~~

- ~~• An imminent change in circumstances is expected [HCV GB, p. 5-17]~~

- ~~It is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income) [24 CFR 5.609(d)]~~
- ~~The PHA believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)]~~

~~PHAs are required to use HUD's Enterprise Income Verification (EIV) system in its entirety as a third-party source to verify employment and income information, and to reduce administrative subsidy payment errors in accordance with HUD administrative guidance [24 CFR 5.233(a)(2)]. HUD allows PHAs to use tenant-provided documents (pay stubs) to project income once EIV data has been received in such cases where the family does not dispute the EIV employer data and where the PHA does not determine it is necessary to obtain additional third-party data.~~

### PHA Policy

~~When EIV is obtained and the family does not dispute the EIV employer data, the PHA will use current tenant-provided documents to project annual income. When the tenant-provided documents are pay stubs, the PHA will make every effort to obtain current and consecutive pay stubs dated within the last 60 days.~~

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

~~If EIV or other UIV data is not available,~~

~~If the family disputes the accuracy of the EIV employer data, and/or~~

~~If the PHA determines additional information is needed.~~

~~In such cases, the PHA will review and analyze current data to anticipate annual income. In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how the PHA annualized projected income.~~

When the PHA cannot readily anticipate income based upon current circumstances (e.g., in the case of temporary, sporadic, or variable employment, seasonal employment, unstable working hours, or suspected fraud), the PHA will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income.

Any time current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to the PHA to show why the historic pattern does not represent the family's anticipated income.

In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how the PHA annualized projected income.

### ***Known Changes in Income***

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

**Example:** An employer reports that a full-time employee who has been receiving \$8/hour will begin to receive \$8.25/hour in the eighth week after the effective date of the new admission or interim reexamination. In such a case the PHA would calculate annual income as follows:  $(\$8/\text{hour} \times 40 \text{ hours} \times 7 \text{ weeks}) + (\$8.25 \times 40 \text{ hours} \times 45 \text{ weeks})$ .

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases the PHA will calculate annual income using current circumstances and then, should the change in income require the PHA to conduct an interim reexamination, conduct an interim reexamination in accordance with PHA policy in Chapter 11. ~~require an interim reexamination when the change actually occurs. This requirement will be imposed even if the PHA's policy on reexaminations does not require interim reexaminations for other types of changes.~~

~~When tenant provided third-party documents are used to anticipate annual income, they will be dated within the last 60 days of the reexamination interview date.~~

### **Projecting Income**

~~In HUD's EIV webcast of January 2008, HUD made clear that PHAs are not to use EIV quarterly wages to project annual income.~~

### **Calculating Annual Income at Annual Reexamination [24 CFR.609(c)(2); Notice PIH 2023-27]**

At annual reexamination, PHAs must first determine the family's income for the previous 12-month period and use this amount as the family income for annual reexaminations; however, adjustments to reflect current income must be made. Any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination of family income in accordance with PHA policies in Chapter 11 and HUD regulations, must be considered. If, however, there have been no changes to income, then the amount of income calculated for the previous 12-month period is the amount that will be used to determine the family's rental assistance. Income from assets is always anticipated, irrespective of the income examination type. Policies related to conducting annual reexaminations are located in Chapter 11.

## **6-I.D. EARNED INCOME**

### **Types of Earned Income Included in Annual Income**

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

~~The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services is included in annual income [24 CFR 5.609(b)(1)].~~

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

~~Earned income means income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no~~

goods or services are being paid for, such as welfare, social security, and governmental subsidies for certain benefits), or any cash or in-kind benefits [24 CFR 5.100].

A day laborer is defined as an individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future [24 CFR 5.603(b)].

A seasonal worker is defined as an individual who is hired into a short-term position( e.g., for which the customary employment period for the position is six months or fewer) and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry [24 CFR 5.603(b)]. Some examples of seasonal work include employment limited to holidays or agricultural seasons. Seasonal work may include but is not limited to employment as a lifeguard, ballpark vendor, or snowplow driver [Notice PIH 2023-27].

### PHA Policy

The PHA will include in annual income the full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation.

For persons who regularly receive bonuses or commissions, the PHA will verify and then average amounts received for the two years preceding admission or interim reexamination. If only a one-year history is available, the PHA will use the prior year amounts. In either case the family may provide, and the PHA will consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, the PHA will count only the amount estimated by the employer. The file will be documented appropriately.

### Some Types of Military Pay

All regular pay, special pay and allowances of a member of the Armed Forces are counted ~~{24 CFR 5.609(b)(8)}~~ except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609~~(be)~~(117)].

### Types of Earned Income Not Counted in Annual Income

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

~~This type of income (including gifts) is not included in annual income. Sporadic income includes temporary payments from the U.S. Census Bureau for employment lasting no longer than 180 days [Notice PIH 2009-19].~~

#### PHA Policy

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

### Children's Earnings of a Minor [24 CFR 5.609(b)(3)]

A minor is a member of the family, other than the head of household or spouse, who is under 18 years of age. Employment income earned by minorsechildren (including foster children) under the age of 18 years is not included in annual income. [24 CFR 5.609(e)(1)]. (See Eligibility chapter for a definition of foster children.) All other sources of unearned income, except those specifically excluded by the regulations, are included.

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

Earnings in excess of \$480 for each full-time student 18 years old or older (except for the head, spouse, or cohead) are not counted [24 CFR 5.609(c)(11)]. The earned income of a dependent full-time student in excess of the amount of the dependent deduction is excluded from annual income. All sources of unearned income, except those specifically excluded by the regulations, are included.

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

To be considered “full-time,” a student must be considered “full-time” by an educational institution with a degree or certificate program [HCV GB, p. 5-29].

### ***Income of a Live-in Aide***

Income earned by a live-in aide, as defined in [24 CFR 5.403], is not included in annual income [24 CFR 5.609(c)(5)]. (See Eligibility chapter for a full discussion of live-in aides.)

### ***Income Earned under Certain Federal Programs***

Income from some federal programs is specifically excluded from consideration as income [24 CFR 5.609(c)(17)], including:

Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)

Awards under the federal work-study program (20 U.S.C. 1087 uu)

Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))

Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))

Allowances, earnings, and payments to participants in programs funded under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

### ***Resident Service Stipend***

Amounts received under a resident service stipend are not included in annual income. A resident service stipend is a modest amount (not to exceed \$200 per individual per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA’s governing board. No resident may receive more than one such stipend during the same period of time [24 CFR 5.600(c)(8)(iv)].

### ***State and Local Employment Training Programs***

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

## PHA Policy

The PHA defines *training program* as “a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period of time. It is designed to lead to a higher level of proficiency, and it enhances the individual’s ability to obtain employment. It may have performance standards to measure proficiency. Training may include, but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education” [expired Notice PIH 98-2, p. 3].

The PHA defines *incremental earnings and benefits* as the difference between: (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program, and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program [expired Notice PIH 98-2, pp. 3-4].

In calculating the incremental difference, the PHA will use as the pre-enrollment income the total annualized amount of the family member’s welfare assistance and earnings reported on the family’s most recently completed HUD-50058.

End of participation in a training program must be reported in accordance with the PHA's interim reporting requirements.

### ***HUD-Funded Training Programs***

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

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

### ***Earned Income Tax Credit***

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

### ***Earned Income Disallowance***

The earned income disallowance for persons with disabilities is discussed in section 6-I.E below.

## **6-I.E. EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES [24 CFR 5.617; Streamlining Final Rule (SFR) Federal Register 3/8/16; [Notice PIH 2023-27](#)]**

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

the PHA policies below will no longer be applicable as of that date or when the last qualifying family exhausts their exclusion period, whichever is sooner.

~~The earned income disallowance (EID) encourages people with disabilities to enter the work force by not including the full value of increases in earned income for a period of time. The full text of 24 CFR 5.617 is included as Exhibit 6-4 at the end of this chapter. Eligibility criteria and limitations on the disallowance are summarized below.~~

#### ~~Eligibility~~

~~This disallowance applies only to individuals in families already participating in the HCV program (not at initial examination). To qualify, the family must experience an increase in annual income that is the result of one of the following events:~~

- ~~• Employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment. Previously unemployed includes a person who annually has earned not more than the minimum wage applicable to the community multiplied by 500 hours. The applicable minimum wage is the federal minimum wage unless there is a higher state or local minimum wage.~~
- ~~• Increased earnings by a family member who is a person with disabilities and whose earnings increase during participation in an economic self-sufficiency or job-training program. A self-sufficiency program includes a program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work to such families [24 CFR 5.603(b)].~~
- ~~• New employment or increased earnings by a family member who is a person with disabilities and who has received benefits or services under Temporary Assistance for Needy Families (TANF) or any other state program funded under Part A of Title IV of the Social Security Act within the past six months. If the benefits are received in the form of monthly maintenance, there is no minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as one-time payments, wage subsidies, or transportation assistance, the total amount received over the six-month period must be at least \$500.~~

#### **6-I.F. BUSINESS AND SELF-EMPLOYMENT INCOME [24 CFR 5.609(b)(28);**

##### **Notice PIH 2023-27]**

Annual income includes “~~the~~ net income from the operation of a business or profession. Net income is gross income minus business expenses that allows the business to operate. Gross income is all income amounts received into the business, prior to the deduction of business expenses.

Expenditures for business expansion or amortization of capital indebtedness ~~shall~~may not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.” ~~[24 CFR 5.609(b)(2)].~~

#### PHA Policy



To determine business expenses that may be deducted from gross income, the PHA will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses [see IRS Publication 535], unless a topic is addressed by HUD regulations or guidance as described herein.

### **Independent Contractors**

Income received as an independent contractor is included in annual income, even if the source, date, or amount of the income varies [24 CFR 5.609 (b)(24)].

An independent contractor is defined as an individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to the Self-Employment Tax. In general, an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done [24 CFR 5.603(b)].

### **Business Expenses**

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

#### PHA Policy

~~To determine business expenses that may be deducted from gross income, the PHA will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses [see IRS Publication 535], unless a topic is addressed by HUD regulations or guidance as described below.~~

### **Business Expansion**

HUD regulations do not permit the PHA to deduct from gross income expenses for business expansion.

#### PHA Policy

*Business expansion* is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate the business in additional locations. For example, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.

### **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-I.G. STUDENT FINANCIAL ASSISTANCE [FR Notice 2/14/23 and Notice PIH 2023-27]**

### **Introduction**

Section 479B of the HEA requires that all assistance under Title IV of the HEA and Bureau of Indian Affairs student financial assistance, even assistance provided to students in excess of tuition and required fees or charges, be excluded from HUD income calculations.

For Section 8 programs only, however, for over 10 years through FY 2022, HUD appropriations have included a provision that for certain students receiving Section 8 assistance, any amounts received in excess of tuition and any other required fees and charges are considered income (with the exception of students who lived with their parents or who were over the age of 23 with a dependent child).

While the language in various consolidated appropriations acts is limited to federal fiscal year covered by the act, this does not rule out the possibility that similar language will be included in future years' appropriations bills.

- For any funds from a year where HUD's appropriations acts include this limitation, it will apply with respect to Section 8 participants. The PHA will follow the pre-HOTMA Section 8 student financial assistance limitation described below.
- During years in which an appropriations act does not contain this Section 8 student financial assistance limitation (or any other such limitation), then the determination of student financial assistance as included/excluded income for all Section 8 students defaults to the methodology described for the public housing program and listed below.

#### **Pre-HOTMA Section 8 Student Financial Assistance Limitation [FR 4/10/06; Notice PIH 2015-21]**

In 2005, Congress passed a law (for Section 8 programs only) requiring that certain student financial assistance be included in annual income. Prior to that, the full amount of student financial assistance was excluded. For some students, the full exclusion still applies. The regulation requiring the inclusion of certain student financial assistance applies only to students who satisfy all of the following conditions:

- They are enrolled in an institution of higher education, as defined under the Higher Education Act (HEA) of 1965.
- They are seeking or receiving Section 8 assistance on their own—that is, apart from their parents—through the HCV program, the project-based voucher program, or the moderate rehabilitation program.
- They are under 24 years of age **OR** they have no dependent children.

For students who satisfy these three conditions, any financial assistance in excess of tuition and any other required fees and charges received: (1) under the 1965 HEA, (2) from a private source, or (3) from an institution of higher education, as defined under the 1965 HEA, must be included in annual income.

To determine annual income in accordance with the above requirements, the PHA will use the definitions of *dependent child*, *institution of higher education*, and *parents* in Chapter 3, along with the following definitions [FR 4/10/06, pp. 18148-18150]:

- *Assistance under the Higher Education Act of 1965* includes Pell Grants, Federal Supplement Educational Opportunity Grants, Academic Achievement Incentive Scholarships, State

Assistance under the Leveraging Educational Assistance Partnership Program, the Robert G. Byrd Honors Scholarship Program, and Federal Work Study programs.

- Assistance from private sources means assistance from nongovernmental sources, including parents, guardians, and other persons not residing with the student in an HCV assisted unit.
- Tuition and fees are defined in the same manner in which the Department of Education defines tuition and fees [Notice PIH 2015-21].
  - This is the amount of tuition and required fees covering a full academic year most frequently charged to students.
  - The amount represents what a typical student would be charged and may not be the same for all students at an institution.
  - If tuition is charged on a per-credit-hour basis, the average full-time credit hour load for an academic year is used to estimate average tuition.
  - Required fees include all fixed-sum charges that are required of a large proportion of all students. Examples include, but are not limited to, writing and science lab fees and fees specific to the student's major or program (i.e., nursing program).
  - Expenses related to attending an institution of higher education must **not** be included as tuition. Examples include, but are not limited to, room and board, books, supplies, meal plans, transportation and parking, student health insurance plans, and other non-fixed-sum charges.

Any student financial assistance not subject to inclusion under the regulations is fully excluded from annual income, whether it is paid directly to the student or to the educational institution the student is attending. This includes any financial assistance received by:

- Students residing with parents who are seeking or receiving Section 8 assistance
- Students who are enrolled in an educational institution that does **not** meet the 1965 HEA definition of *institution of higher education*
- Students who are over 23 **AND** have at least one dependent child, as defined in section 3-II.E
- Students who are receiving financial assistance through a governmental program not authorized under the 1965 HEA.

### **HOTMA Student Financial Assistance Requirements [24 CFR 5.609(b)(9)]**

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

### **Types of Assistance**

Any assistance to students under section 479B of the Higher Education Act of 1965 (Title IV of the HEA) must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i)].

Examples of assistance under title IV of the HEA include:

- Federal Pell Grants;
- Teach Grants;
- Federal Work Study Programs;

- Federal Perkins Loans;
- Income earned in employment and training programs under section 134 of the Workforce Innovation and Opportunity Act (WIOA); or
- Bureau of Indian Affairs/Education student assistance programs
  - The Higher Education Tribal Grant
  - The Tribally Controlled Colleges or Universities Grant Program

Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education not otherwise excluded by the Federally mandated income exclusions are excluded [24 CFR 5.609(b)(9)(ii)]. *Actual covered costs* are defined as the actual costs of:

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

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

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

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

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

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

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

Student financial assistance, does not include:

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

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

The formula for calculating the amount of other student financial assistance that is excluded from income always begins with deducting the assistance received under 479B of the HEA from the total actual covered costs, because the 479B assistance is intended to pay the student's actual covered costs. When a student receives assistance from both Title IV of the HEA and from other sources, the assistance received under Title IV of the HEA must be applied to the student's actual covered costs first and then other student financial assistance is applied to any remaining actual covered costs. Once actual costs are covered, any remaining student financial assistance is considered income.

**PHA Policy**

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

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

**Example 1**

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

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

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

**Example 2**

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

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

### Example 3

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

### Example 4

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

## **~~6-I.G. ASSETS [24 CFR 5.609(b)(3); 24 CFR 5.603(b)]~~**

### **~~Overview~~**

~~There is no asset limitation for participation in the HCV program. However, HUD requires that the PHA include in annual income the anticipated “interest, dividends, and other net income of any kind from real or personal property” [24 CFR 5.609(b)(3)]. This section discusses how the income from various types of assets is determined. For most types of assets, the PHA must determine the value of the asset in order to compute income from the asset. Therefore, for each asset type, this section discusses:~~

~~How the value of the asset will be determined~~

~~How income from the asset will be calculated~~

~~Exhibit 6-1 provides the regulatory requirements for calculating income from assets [24 CFR 5.609(b)(3)], and Exhibit 6-3 provides the regulatory definition of *net family assets*. This section~~

begins with a discussion of general policies related to assets and then provides HUD rules and PHA policies related to each type of asset.

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

### **General Policies**

#### ***Income from Assets***

The PHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, HUD authorizes the PHA to use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected (2) it is not feasible to anticipate a level of income over 12 months or (3) the PHA believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income but the property is currently vacant, the PHA can take into consideration past rental income along with the prospects of obtaining a new tenant.

#### PHA Policy

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

#### ***Valuing Assets***

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

The market value of an asset is its worth in the market (e.g., the amount a buyer would pay for real estate or the total value of an investment account).

The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.

#### PHA Policy

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions [HCV GB, p. 5-28].

#### ***Lump-Sum Receipts***

Payments that are received in a single lump sum, such as inheritances, capital gains, lottery winnings, insurance settlements, and proceeds from the sale of property, are generally considered assets, not income. However, such lump-sum receipts are counted as assets only if they are retained by a family in a form recognizable as an asset (e.g., deposited in a savings or checking account) [RHIP FAQs]. (For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see sections 6-I.H and 6-I.I.)

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

When net family assets are \$5,000 or less, the PHA will include in annual income the actual income anticipated to be derived from the assets. When the family has net family assets in excess of \$5,000, the PHA will include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income. Imputed income from assets is calculated by multiplying the total cash value of all family assets by an average passbook savings rate as determined by the PHA.



Note: The HUD field office no longer provides an interest rate for imputed asset income. The “safe harbor” is now for the PHA to establish a passbook rate within 0.75 percent of a national average.

The PHA must review its passbook rate annually to ensure that it remains within 0.75 percent of the national average.

#### PHA Policy

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

The PHA will review the passbook rate annually. The rate will not be adjusted unless the current PHA rate is no longer within 0.75 percent of the national rate. If it is no longer within 0.75 percent of the national rate, the passbook rate will be set at the current national rate.

The effective date of changes to the passbook rate will be determined at the time of the review.

### ***Determining Actual Anticipated Income from Assets***

It may or may not be necessary for the PHA to use the value of an asset to compute the actual anticipated income from the asset. When the value is required to compute the anticipated income from an asset, the market value of the asset is used. For example, if the asset is a property for which a family receives rental income, the anticipated income is determined by annualizing the actual monthly rental amount received for the property; it is not based on the property’s market value. However, if the asset is a savings account, the anticipated income is determined by multiplying the market value of the account by the interest rate on the account.

### ***Withdrawal of Cash or Liquidation of Investments***

Any withdrawal of cash or assets from an investment will be included in income except to the extent that the withdrawal reimburses amounts invested by the family. For example, when a family member retires, the amount received by the family from a retirement investment plan is not counted as income until the family has received payments equal to the amount the family member deposited into the retirement investment plan.

### ***Jointly Owned Assets***

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

#### PHA Policy

If an asset is owned by more than one person and any family member has unrestricted access to the asset, the PHA will count the full value of the asset. A family member has unrestricted access to an asset when they can legally dispose of the asset without the consent of any of the other owners.

If an asset is owned by more than one person, including a family member, but the family member does not have unrestricted access to the asset, the PHA will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, the PHA will prorate the asset evenly among all owners.

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

HUD regulations require the PHA to count as a current asset any business or family asset that was disposed of for less than fair market value during the two years prior to the effective date of the examination/reexamination, except as noted below.

### ***Minimum Threshold***

The *HCV Guidebook* permits the PHA to set a threshold below which assets disposed of for less than fair market value will not be counted [HCV GB, p. 5-27].

#### PHA Policy

The PHA will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than \$1,000.

When the two-year period expires, the income assigned to the disposed asset(s) also expires. If the two-year period ends between annual recertifications, the family may request an interim recertification to eliminate consideration of the asset(s).

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

### ***Separation or Divorce***

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

#### PHA Policy

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

### ***Foreclosure or Bankruptcy***

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

### ***Family Declaration***

#### PHA Policy

Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. The PHA may verify the value of the assets disposed of if other information available to the PHA does not appear to agree with the information reported by the family.

## **Types of Assets**

### ***Checking and Savings Accounts***

For regular checking accounts and savings accounts, *cash value* has the same meaning as *market value*. If a checking account does not bear interest, the anticipated income from the account is zero.

#### PHA Policy

In determining the value of checking account and savings accounts, the PHA will use the current balance.

In determining the anticipated income from an interest-bearing checking or savings account, the PHA will multiply the value of the account by the current rate of interest paid on the account.

### ***Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds***

Interest or dividends earned by investment accounts are counted as actual income from assets even when the earnings are reinvested. The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

PHA Policy

In determining the market value of an investment account, the PHA will use the value of the account on the most recent investment report.

How anticipated income from an investment account will be calculated depends on whether the rate of return is known.

For assets that are held in an investment account with a known rate of return (e.g., savings certificates), asset income will be calculated based on that known rate (market value multiplied by rate of earnings).

When the anticipated rate of return is not known (e.g., stocks), the PHA will calculate asset income based on the earnings for the most recent reporting period.

***Equity in Real Property or Other Capital Investments***

Equity (cash value) in a property or other capital asset is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset [HCV GB, p. 5-25].

PHA Policy

In determining the equity, the PHA will determine market value by examining recent sales of at least three properties in the surrounding or similar neighborhood that possess comparable factors that affect market value.

The PHA will first use the payoff amount for the loan (mortgage) as the unpaid balance to calculate equity. If the payoff amount is not available, the PHA will use the basic loan balance information to deduct from the market value in the equity calculation.

Equity in real property and other capital investments is considered in the calculation of asset income **except** for the following types of assets:

Equity accounts in HUD homeownership programs [24 CFR 5.603(b)]

The value of a home currently being purchased with assistance under the HCV program Homeownership Option for the first 10 years after the purchase date of the home [24 CFR 5.603(b), Notice PIH 2012-3]

Equity in owner-occupied cooperatives and manufactured homes in which the family lives [HCV GB, p. 5-25]

Equity in real property when a family member's main occupation is real estate [HCV GB, p. 5-25]. This real estate is considered a business asset, and income related to this asset will be calculated as described in section 6-I.F.

Interests in Indian Trust lands [24 CFR 5.603(b)]

Real property and capital assets that are part of an active business or farming operation [HCV GB, p. 5-25]

The PHA must also deduct from the equity the reasonable costs for converting the asset to cash. Using the formula for calculating equity specified above, the net cash value of real property is the market value minus the balance of the loan (mortgage) minus the expenses to convert to cash [Notice PIH 2012-3].

PHA Policy

For the purposes of calculating expenses to convert to cash for real property, the PHA will use ten percent of the market value of the home.

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

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

#### PHA Policy

In the case of capital investments owned jointly with others not living in a family's unit, a prorated share of the property's cash value will be counted as an asset unless the PHA determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

#### ***Trusts***

A *trust* is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

#### ***Revocable Trusts***

If any member of a family has the right to withdraw the funds in a trust, the value of the trust is considered an asset [HCV GB, p. 5-25]. Any income earned as a result of investment of trust funds is counted as actual asset income, whether the income is paid to the family or deposited in the trust.

#### ***Nonrevocable Trusts***

In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump-sum receipt, as appropriate [24 CFR 5.603(b)]. (Periodic payments are covered in section 6 I.H. Lump-sum receipts are discussed earlier in this section.)

#### ***Retirement Accounts***

##### ***Company Retirement/Pension Accounts***

In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, the PHA must know whether the money is accessible before retirement [HCV GB, p. 5-26].

While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset [HCV GB, p. 5-26].

After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate [HCV GB, p. 5-26], except to the extent that it represents funds invested in the account by the family member. (For more on periodic payments, see section 6 I.H.) The balance in the account is counted as an asset only if it remains accessible to the family member.

##### ***IRA, Keogh, and Similar Retirement Savings Accounts***

IRA, Keogh, and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty [HCV GB, p. 5-25].

### ***Personal Property***

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset [HCV GB, p. 5-25].

#### PHA Policy

In determining the value of personal property held as an investment, the PHA will use the family's estimate of the value. The PHA may obtain an appraisal to confirm the value of the asset if there is reason to believe that the family's estimated value is off by \$50 or more. The family must cooperate with the appraiser, but cannot be charged any costs related to the appraisal.

Generally, personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g., income from renting the personal property), the amount that is expected to be earned in the coming year is counted as actual income from the asset.

Necessary items of personal property are not considered assets [24 CFR 5.603(b)].

#### PHA Policy

Necessary personal property consists of only those items not held as an investment, and may include clothing, furniture, household furnishings, jewelry, and vehicles, including those specially equipped for persons with disabilities.

### ***Life Insurance***

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets [HCV GB 5-25]. The cash value is the surrender value. If such a policy earns dividends or interest that the family could elect to receive, the anticipated amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

## **6-I.H. PERIODIC PAYMENTS**

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

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

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

### PHA Policy

The PHA will include in annual income the full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts. Payments in lieu of earnings, such as unemployment and disability compensation, and severance pay are also counted as income if they are received in the form of periodic payments.

### **Periodic Payments Included in Annual Income**

- ~~Periodic payments from sources such as social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions. However, periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the family [24 CFR 5.609(b)(4) and (b)(3)].~~
- ~~Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum [24 CFR 5.609(b)(4) and HCV, p. 5-14].~~

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

~~Deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs (VA) disability benefits that are received in a lump sum amount or in prospective monthly amounts are excluded from annual income. Most lump sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income. Additionally, any deferred disability benefits that are received in a lump sum or in prospective monthly amounts from the Department of Veterans Affairs are to be excluded from annual income [24 CFR 5.609(c)(14)].~~

### PHA Policy

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

When a delayed-start payment is received that is to be included and the family and reports ~~ed this~~ during the period in which the PHA is processing an annual reexamination, the PHA will adjust the family's rent share and PHA subsidy retroactively for the period the payment was intended to cover. ~~The family may pay in full any amount due or request to enter into a repayment agreement with the PHA.~~

If the delayed-start payment is received outside of the time the PHA is processing an annual reexamination, then the PHA will consider whether the amount meets the threshold to conduct an interim reexamination. If so, the PHA will conduct an interim in accordance with PHA policies in Chapter 11. If not, the PHA will consider the amount when processing the family's next annual recertification.

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

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

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

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

### **Treatment of Overpayment Deductions from Social Security Benefits [Notice PIH 2018-24]**

The PHA is required to use the gross benefit amount to calculate annual income from Social Security benefits.

Annually in October, the Social Security Administration (SSA) announces the cost-of-living adjustment (COLA) by which federal Social Security and SSI benefits are adjusted to reflect the increase, if any, in the cost of living. The federal COLA does not apply to state-paid disability benefits. Effective the day after the SSA has announced the COLA, PHAs are required to factor in the COLA when determining Social Security and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1 or later of the upcoming year [Notice PIH 2023-27]. **When a family member's benefits are garnished, levied, or withheld to pay restitution, child support, tax debt, student loan debt, or other debts, the CDA must use the gross amount of the income, prior to the reduction, to determine the family's annual income.**

#### PHA Policy

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. ~~W~~The PHA must make a special calculation of annual income when the Social Security Administration (SSA) overpays an individual, resulting in a withholding or deduction from their benefit amount until the overpayment is paid in full. ~~The amount and duration of the withholding will vary depending on the amount of the overpayment and the percent of the benefit rate withheld. Regardless of the amount withheld or the length of the withholding period, the PHA must will~~ use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount ~~[Notice PIH 2018-24].~~

### **Alimony and Child Support**

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

#### PHA Policy

The PHA will count all regular payments of alimony or child support awarded as part of a divorce or separation agreement.

The PHA will count court-awarded amounts for alimony and child support unless the family certifies and the PHA verifies that the payments are not being made.

In order to verify that payments are not being made, the PHA will review child support payments over the last **three** months.

If payments are being made regularly, the PHA will use the amount received during the last **12** months (excluding any lump sums received). If payments have been made for a period less than 12 months, the PHA will average all payments that have been made.

At new admission or interim recertification, if any lump sum payments were made in the past 12 months, the PHA will determine the likelihood of the family

receiving another similar payment within the next 12 months before deciding whether or not this amount will be included in the calculation of annual income.

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

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

If no payments have been made in the past **three** months and there are no lump sums, the PHA will not include **alimony or child support** in annual income

### **Periodic Payments Excluded from Annual Income**

~~Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the assisted family, who are unable to live alone) [24 CFR 5.609(c)(2)]. Kinship guardianship assistance payments (Kin-GAP) and other similar guardianship payments are treated the same as foster care payments and are likewise excluded from annual income [Notice PIH 2012-1].~~

#### PHA Policy

~~The PHA will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency [HCV GB, p. 5-18].~~

~~Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)].~~

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

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

~~Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR 5.609(c)(17)].~~

~~*Note:* EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.~~

~~Lump sums received as a result of delays in processing Social Security and SSI payments (see section 6 I.H.) [24 CFR 5.609(c)(14)].~~

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

### **6-I.I. NONRECURRING INCOME [24 CFR 5.609(b)(24 and Notice PIH 2023-27)]**

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

Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income as nonrecurring income, even if the source, date, or amount of the income varies. Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from a family's annual income as nonrecurring income. This exclusion does not include unemployment income and other types



of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended.

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

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

Nonrecurring income that is excluded under the regulations includes:

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

#### **6-I.I. PAYMENTS IN LIEU OF EARNINGS**

~~Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay, are counted as income [24 CFR 5.609(b)(5)] if they are received either in the form of periodic payments or in the form of a lump sum amount or prospective monthly amounts for the delayed start of a periodic payment. If they are received in a one-time lump sum (as a settlement, for instance), they are treated as lump sum receipts [24 CFR 5.609(e)(3)]. (See also the discussion of periodic payments in section 6-I.H and the discussion of lump sum receipts in section 6-I.G.)~~

#### **6-I.K. 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 an assisted family.~~

### **Alimony and Child Support**

The PHA must count alimony or child support amounts awarded as part of a divorce or separation agreement.

#### PHA Policy

The PHA will count court-awarded amounts for alimony and child support unless the PHA verifies that: (1) the payments are not being made, and (2) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments [HCV GB, pp. 5-23 and 5-47].

Families who do not have court-awarded alimony and child support awards are not required to seek a court award and are not required to take independent legal action to obtain collection.

### **Regular Contributions or Gifts**

The PHA must count as income regular monetary and nonmonetary contributions or gifts from persons not residing with an assisted family [24 CFR 5.609(b)(7)]. Temporary, nonrecurring, or sporadic income and gifts are not counted [24 CFR 5.609(e)(9)].

#### PHA Policy

Examples of regular contributions include: (1) regular payment of a family's bills (e.g., utilities, telephone, rent, credit cards, and car payments), (2) cash or other liquid assets provided to any family member on a regular basis, and (3) "in-kind" contributions such as groceries and clothing provided to a family on a regular basis.

Nonmonetary contributions will be valued at the cost of purchasing the items, as determined by the PHA. For contributions that may vary from month to month (e.g., utility payments), the PHA will include an average amount based upon past history.

### **6-I.L. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9); Notice PIH 2015-21]**

In 2005, Congress passed a law (for Section 8 programs only) requiring that certain student financial assistance be included in annual income. Prior to that, the full amount of student financial assistance was excluded. For some students, the full exclusion still applies.

#### **Student Financial Assistance Included in Annual Income [24 CFR 5.609(b)(9); FR 4/10/06; Notice PIH 2015-21]**

The regulation requiring the inclusion of certain student financial assistance applies only to students who satisfy all of the following conditions:

They are enrolled in an institution of higher education, as defined under the Higher Education Act (HEA) of 1965.

They are seeking or receiving Section 8 assistance on their own—that is, apart from their parents—through the HCV program, the project-based voucher program, or the moderate rehabilitation program.

They are under 24 years of age **OR** they have no dependent children.

For students who satisfy these three conditions, any financial assistance in excess of tuition and any other required fees and charges received: (1) under the 1965 HEA, (2) from a private source, or (3) from an institution of higher education, as defined under the 1965 HEA, must be included in annual income.

To determine annual income in accordance with the above requirements, the PHA will use the definitions of *dependent child*, *institution of higher education*, and *parents* in section 3-II.E, along with the following definitions [FR 4/10/06, pp. 18148-18150]:

*Assistance under the Higher Education Act of 1965* includes Pell Grants, Federal Supplement Educational Opportunity Grants, Academic Achievement Incentive Scholarships, State Assistance under the Leveraging Educational Assistance Partnership Program, the Robert G. Byrd Honors Scholarship Program, and Federal Work Study programs.

*Assistance from private sources* means assistance from nongovernmental sources, including parents, guardians, and other persons not residing with the student in an HCV-assisted unit.

*Tuition and fees* are defined in the same manner in which the Department of Education defines *tuition and fees* [Notice PIH 2015-21].

This is the amount of tuition and required fees covering a full academic year most frequently charged to students.

The amount represents what a typical student would be charged and may not be the same for all students at an institution.

If tuition is charged on a per-credit-hour basis, the average full-time credit hour load for an academic year is used to estimate average tuition.

Required fees include all fixed-sum charges that are required of a large proportion of all students. Examples include, but are not limited to, writing and science lab fees and fees specific to the student's major or program (i.e., nursing program).

Expenses related to attending an institution of higher education must **not** be included as tuition.

Examples include, but are not limited to, room and board, books, supplies, meal plans, transportation and parking, student health insurance plans, and other non-fixed-sum charges.

#### **Student Financial Assistance Excluded from Annual Income [24 CFR 5.609(e)(6)]**

Any student financial assistance not subject to inclusion under 24 CFR 5.609(b)(9) is fully excluded from annual income under 24 CFR 5.609(e)(6), whether it is paid directly to the student or to the educational institution the student is attending. This includes any financial assistance received by:

Students residing with parents who are seeking or receiving Section 8 assistance

Students who are enrolled in an educational institution that does **not** meet the 1965 HEA definition of *institution of higher education*

Students who are over 23 **AND** have at least one dependent child, as defined in section 3-II.E

Students who are receiving financial assistance through a governmental program not authorized under the 1965 HEA.

#### **6-I.K. STATE PAYMENTS TO ALLOW INDIVIDUALS WITH DISABILITIES TO LIVE AT HOME [24 CFR 5.609(b)(19)]**

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

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

The payments must be received for caregiving services a family member provides to enable another member of the assisted family who has a disability to reside in the family's assisted unit.

Payments to a family member for caregiving services for someone who is not a member of the assisted family (such as for a relative that resides elsewhere) are not excluded from income.

Furthermore, if the agency is making payments for caregiving services to the family member for an assisted family member and for a person outside of the assisted family, only the payments

attributable to the caregiving services for the caregiver's assisted family member would be excluded from income.

#### **6-I.L. CIVIL RIGHTS SETTLEMENTS [24 CFR 5.609(b)(25); FR Notice 2/14/23]**

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

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

Furthermore, if a civil rights settlement or judgment increases the family's net family assets such that they exceed \$50,000 (as annually adjusted by an inflationary factor), then income will be imputed on the net family assets pursuant to 24 CFR 5.609(a)(2). If the imputed income, which HUD considers unearned income, increases the family's annual adjusted income by 10 percent or more, then an interim reexamination of income will be required unless the addition to the family's net family assets occurs within the last three months of the family's income certification period and the PHA or owner chooses not to conduct the examination.

#### **6-I.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME [24 CFR 5.609(b)]**

Other exclusions contained in 24 CFR 5.609(b) that have not been discussed earlier in this chapter include the following:

- Payments received for the care of foster children or foster adults or state or tribal kinship or guardianship care payments [24 CFR 5.609(b)(4)].
- Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation [24 CFR 5.609(b)(5)]. However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that are received in lieu of wages for workers' compensation are included in annual income [Notice PIH 2023-27].
- Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member [24 CFR 5.609(b)(6)].
- Reimbursement of medical expenses [24 CFR 5.609(e)(4)]
- 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(e)(128)(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)(128)(i)].

- Amounts received under a resident service stipend not to exceed \$200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development [24 CFR 5.600(b)(12)(iii)].

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

#### PHA Policy

The PHA defines *training program* as “a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period of time. It is designed to lead to a higher level of proficiency, and it enhances the individual’s ability to obtain employment. It may have performance standards to measure proficiency. Training may include but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education” [expired Notice PIH 98-2, p. 3].

The PHA defines *incremental earnings and benefits* as the difference between (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program [expired Notice PIH 98-2, pp. 3–4].

In calculating the incremental difference, the PHA will use as the pre-enrollment income the total annualized amount of the family member’s welfare assistance and earnings reported on the family’s most recently completed HUD-50058.

End of participation in a training program must be reported in accordance with the PHA’s interim reporting requirements (see Chapter 11).

- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(b)(13)].
- Adoption assistance payments for a child in excess of \$480 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 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 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.

## **PART II: ASSETS**

### **6-II.A. OVERVIEW**

Annual income includes all actual anticipated income from assets (unless otherwise excluded by the regulations) even if the asset itself is excluded from net family assets [Notice PIH 2023-27]. The regulation at 24 CFR 5.603(b)(3) provides a list of items that are excluded from the calculation of net family assets. Note, unlike previous versions of the regulations, the current regulations do not list types of assets that are included in annual income. Instead, HUD relies on the definition of items excluded from assets to provide the scope of what is included. Exhibit 6-2 provides the regulatory definition of *net family assets*.

Optional policies for family self-certification of assets are found in Chapter 7. Policies related to the asset limitation may be found in Chapter 3.

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

#### PHA Policy

The PHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. The PHA will use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected, (2) it is not feasible to anticipate a level of income over 12 months, or (3) the PHA believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income, but the property is currently vacant, the PHA can take into consideration past rental income along with the prospects of obtaining a new tenant.

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

### **6-II.B. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE**

#### **[24 CFR 5.603(b)(2)]**

PHAs must include the value of any business or family assets disposed of by an applicant or participant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application or reexamination, as applicable, in excess of the consideration received for the asset.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value. [Notice PIH 2023-27].

#### **Minimum Threshold**

The *HCV Guidebook* permits the PHA to set a threshold below which assets disposed of for less than fair market value will not be counted [HCV GB, p. 5-27].

#### PHA Policy

The PHA will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than \$1,000.

#### **Separation or Divorce**

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

PHA Policy

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

**Foreclosure or Bankruptcy**

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

**Asset Owned by a Business Entity**

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

**Family Declaration**

PHA Policy

Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. The PHA may verify the value of the assets disposed of if other information available to the PHA does not appear to agree with the information reported by the family.

**6-II.C. ASSET INCLUSIONS AND EXCLUSIONS**

**Checking and Savings Accounts [Notice PIH 2023-27]**

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

- When the combined value of net family assets is greater than \$50,000, as adjusted by inflation, checking and/or savings accounts would be counted toward net family assets.
- When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's checking and/or savings accounts would not be considered when calculating net family assets.

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

**ABLE Accounts [24 CFR 5.609(b)(10); Notice PIH 2019-09]**



An Achieving a Better Life Experience (ABLE) account is a type of tax-advantaged savings account that an eligible individual can use to pay for qualified disability expenses. Section 103 of the ABLE Act mandates that an individual's ABLE account (specifically, its account balance, contributions to the account, and distributions from the account) is excluded when determining the designated beneficiary's eligibility and continued occupancy under certain federal means-tested programs. The PHA must exclude the entire value of the individual's ABLE account from the household's assets. Distributions from the ABLE account are also not considered income. However, all wage income received, regardless of which account the money is paid to, is included as income.

**Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds [24 CFR 5.603(b)(1)]**

HUD considers financial investments such as stocks and bonds non-necessary items of personal property. Whether non-necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

- When the combined value of net family assets is greater than \$50,000, as adjusted by inflation, financial investments such as stocks and bonds are considered part of net family assets. In this case, the value of the family's checking and/or savings accounts would be counted toward net family assets.
- When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's financial investments such as stocks and bonds would not be considered when calculating net family assets.

However, actual income from financial accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, but when no dividend is issued, the actual return is \$0. When the stock never issues dividends, the actual return is \$0.

**PHA Policy**

The PHA will include interest or dividends earned by investment accounts as actual income from assets even when the earnings are reinvested.

The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash. In determining the market value of an investment account, the PHA will use the value of the account on the most recent investment report.

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

All assets are categorized as either *real property* (e.g., land, a home) or *personal property*. *Personal property* includes tangible items, like boats, as well as intangible items, like bank accounts.

The value of necessary items of personal property is excluded from the calculation of net family assets. Necessary items of personal property include a car used for commuting or medical devices. HUD defines *necessary personal property* as items essential to the family for the maintenance, use, and occupancy of the premises as a home; or they are necessary for employment, education,

or health and wellness. Necessary personal property includes more than merely items that are indispensable to the bare existence of the family. It may include personal effects (such as items that are ordinarily worn or utilized by the individual), items that are convenient or useful to a reasonable existence, and items that support and facilitate daily life within the family’s home. Necessary personal property also includes items that assist a household member with a disability, including any items related to disability-related needs, or that may be required for a reasonable accommodation for a person with a disability. Necessary personal property does not include bank accounts, other financial investments, or luxury items. Items of personal property that do not qualify as necessary personal property are classified as non-necessary personal property. The combined value of all **non-necessary** items of personal property is only included in annual income when the combined total value exceeds \$50,000 (adjusted annually by HUD). When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets. While not an exhaustive list, the following table from Notice PIH 2023-27 provides examples of necessary and non-necessary personal property.

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

[PHA Policy](#)

[In determining the value of non-necessary personal property, the PHA will use the family’s estimate of the value. The PHA may obtain an appraisal if there is reason to](#)

believe that the family's estimated value is off by \$50 or more. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.

***Lump-Sum Additions to Net Family Assets [24 CFR 5.609(b)(24)(viii); Notice PIH 2023-27]***

The regulations exclude income from lump-sum additions to family assets, including lottery or other contest winnings as a type of nonrecurring income.

In addition, lump sums from insurance payments, settlements for personal or property losses, and recoveries from civil actions or settlements based on claims of malpractice, negligence, or other breach of duty owed to a family member arising out of law that resulted in a member of the family becoming a family member with a disability are excluded from income.

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

However, these amounts may count toward net family assets. The PHA must consider any actual or imputed returns from assets as income at the next applicable income examination. In the case where the lump sum addition to assets would lead to imputed income, which is unearned income, that increases the family's annual adjusted income by 10 percent or more, then the addition of the lump sum to the family's assets will trigger an immediate interim reexamination of income in accordance with Chapter 11. This reexamination of income must take place as soon as the lump sum is added to the family's net family assets unless the addition takes place in the last three months of family's income certification period and the PHA chooses not to conduct the examination.

For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see sections 6-I.H and 6-I.I.

**PHA Policy**

Any lump-sum receipts are only counted as assets if they are retained by a family in a form recognizable as an asset. [RHIP FAQs]. For example, if the family receives a \$1,000 lump sum for lottery winnings, and the family immediately spends the entire amount, the lump sum will not be counted toward net family assets.

***Jointly Owned Assets [Notice PIH 2023-27]***

For assets owned jointly by the family and one or more individuals outside of the assisted family, the PHA must include the total value of the asset in the calculation of net family assets, unless:

- The asset is otherwise excluded;
- The family can demonstrate that the asset is inaccessible to them; or
- The family cannot dispose of any portion of the asset without the consent of another owner who refuses to comply.

If the family demonstrates that they can only access a portion of an asset, then only that portion's value is included in the calculation of net family assets for the family.

Any income from a jointly owned asset must be included in annual income, unless:

- The income is specifically excluded;
- The family demonstrates that they do not have access to the income from that asset; or

- The family only has access to a portion of the income from that asset.  
If the family demonstrates that they can only access a portion of the income from an asset, then only that portion's value is included in the calculation of income from assets.  
If an individual is a beneficiary who is entitled to access the account's funds only upon the death of the account's owner, and may not otherwise withdraw funds from an account, then the account is not an asset to the assisted family, and the family should provide proper documentation demonstrating that they are only a beneficiary on the account.

**Trusts [24 CFR 5.609(b)(2) and 5.603(b)(4)]**

A trust is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

The following types of trust distributions are excluded from annual income:

- Distributions of the principal or corpus of the trust; and
- Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.

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

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

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

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

The value of revocable trusts that are not under the control of the family are excluded from net family assets. This happens when a member of the assisted family is the beneficiary of a revocable trust, but the grantor is not a member of the assisted family. In this case the beneficiary does not "own" the revocable trust, and the value of the trust is excluded from net family assets. For the revocable trust to be considered excluded from net family assets, no family or household member may be the account's trustee. If this is the case, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.

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

Revocable trusts under the control of the family or household (e.g., the grantor is a member of the assisted family or household) are considered assets and must be included in net family assets. If the value of the trust is considered part of the family's net assets, then distributions from the trust are not considered income to the family. The PHA must count all actual returns (e.g., interest earned) from the trust as income or, if the trust has no actual returns (e.g., if the trust is comprised of farmland that is not in use) and the total value of the combined net family assets exceeds \$50,000 (as that amount is updated for inflation), as imputed returns, as applicable.

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

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

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

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

All amounts received by a family in the form of federal tax refunds or refundable tax credits are excluded from a family's net family assets for a period of 12 months after receipt by the family. At the time of an annual or interim reexamination of income, if the federal tax refund was received during the 12 months preceding the effective date of the reexamination, then the amount of the refund that was received by the family is subtracted from the total value of the account in which the federal tax refund or refundable tax credits were deposited. When the subtraction results in a negative number, then the balance of the asset is considered \$0.

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

### **Asset Exclusions [24 CFR 5.603(b)]**

The following are excluded from the calculations of net family assets:

- The value of any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals [24 CFR 5.603(b)(3)(iii)].
- The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located [24 CFR 5.603(b)(3)(iv)].
  - Real property as used in this part has the same meaning as that provided under the law of the state in which the property is located [24 CFR 5.100].
  - Examples of this include but are not limited to co-ownership situations (including situations where one owner is a victim of domestic violence), where one party cannot

unilaterally sell the real property; property that is tied up in litigation; and inherited property in dispute [Notice PIH 2023-27].

- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability [24 CFR 5.603(b)(3)(v)];
- The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 [24 CFR 5.603(b)(3)(vi)];
- The value of any qualified tuition program under Section 529 of such Code [24 CFR 5.603(b)(3)(vi)];
- The value of any “baby bond” account created, authorized, or funded by federal, state, or local government [24 CFR 5.603(b)(3)(vi)];
- Interests in Indian trust land [24 CFR 5.603(b)(3)(vii)];
- Equity in a manufactured home where the family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(viii)];
- Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(ix)];
- Family Self-Sufficiency accounts [24 CFR 5.603(b)(3)(x)];
- Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family [24 CFR 5.603(b)(3)(xi)].
- The full amount of assets held in an irrevocable trust [Notice PIH 2023-27]; and
- The full amount of assets held in a revocable trust where a member of the family is the beneficiary, but the grantor/owner and trustee of the trust is not a member of the participant family or household [Notice PIH 2023-27].

#### **6-II.D. DETERMINING INCOME FROM ASSETS**

In some cases, amounts that are excluded from net family assets may be included as annual income when disbursements are made to a family from an asset. In other cases, amounts are excluded from annual income as a lump-sum addition to net family assets, but those funds are then considered a net family asset if held in an account or other investment that is considered part of net family assets [Notice PIH 2023-27].

#### **Net Family Assets**

Net family assets are defined as the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment.

#### **PHA Policy**

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions such as settlement costs and transfer taxes [New PH OCC GB, *Income Determinations*, p. 24].

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

- The market value of an asset is its worth in the market (e.g., the amount a buyer would pay for real estate or the total value of an investment account).
- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.

The cash value of real property or other assets with negative equity would be considered \$0 for the purposes of calculating net family assets. Negative equity in real property or other investments does not prohibit the family from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets [Notice PIH 2023-27].

### *Actual Income from Assets*

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

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

The PHA may determine the net assets of a family based on a self-certification by the family that the net family assets do not exceed \$50,000 (adjusted annually by HUD), without taking additional steps to verify the accuracy of the declaration [24 CFR 5.618(b)]. Policies related to verification of assets are found in Chapter 7 of this policy.

The PHA may not calculate or include any imputed income from assets when net family assets total \$50,000 or less [24 CFR 5.609(b)(1)]. The actual income from assets must be included on the Form HUD-50058.

### *Imputed Income from Assets*

When net family assets exceed \$50,000 (adjusted annually by HUD), the PHA may not rely on self-certification. If actual returns can be calculated, the PHA must include actual income from the asset on the Form HUD-50058 (for example, a savings account or CD where the rate of return is known). If actual returns cannot be calculated, the PHA must calculate imputed returns using the HUD-determined passbook rate (for example, real property or a non-necessary item of personal property such as a recreational boat). If the PHA can compute actual income from some but not all assets, the PHA must compute actual returns where possible and use the HUD-determined passbook rate for assets where actual income cannot be calculated [24 CFR 5.609(a)(2)].

An asset with an actual return of \$0 (such as a non-interest-bearing checking account), is not the same as an asset for which an actual return cannot be computed (such as non-necessary personal property). If the asset is a financial asset and there is no income generated (for example, a bank account with a zero percent interest rate or a stock that does not issue cash dividends), then the

asset generates zero actual asset income, and imputed income is not calculated. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, and when no dividend is issued, the actual return is \$0. When the stock never issues dividends, the actual return is consistently \$0.

## PART III: ADJUSTED INCOME

### 6-III.A. INTRODUCTION

#### Overview

HUD regulations require PHAs to deduct from annual income any of five mandatory deductions for which a family qualifies and allow the PHA to deduct other permissive deductions in accordance with PHA policy. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

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. In determining adjusted income, the responsible entity [PHA] must deduct the following amounts from annual income:~~

(a) Mandatory deductions

(1) \$480 for each dependent (adjusted annually by HUD, rounded to the next lowest multiple of \$25);

(2) ~~\$525~~400 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~~three 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. ~~This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus;~~ and

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

This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in Chapter 7.

### Anticipating Expenses

#### PHA Policy

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

If a family has an accumulated debt for medical or disability assistance expenses, the PHA will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. The PHA may require the family to provide documentation of payments made in the preceding year.



When calculating health and medical care expenses, the PHA will include those expenses anticipated to be incurred during the 12 months following the certification date which are not covered by an outside source, such as insurance. The allowance is not intended to give a family an allowance equal to last year's expenses, but to anticipate regular ongoing and anticipated expenses during the coming year. Since these expenses are anticipated, the PH Occupancy Guidebook states "it is likely that actual expenses will not match what was anticipated. Typically, this would not be considered an underpayment as long as at the time of the annual reexamination, the expenses were calculated based on the appropriate verification" [New PH OCC GB, *Income Determinations*, p. 30]. For annual reexaminations, the PHA will use information for the previous 12-month period.

### **6-III.B. DEPENDENT DEDUCTION**

An allowance of \$480 is deducted from annual income for each dependent (which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25) [24 CFR 5.611(a)(1)]. *Dependent* is defined as any family member other than the head, spouse, or cohead who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

### **6-III.C. ELDERLY OR DISABLED FAMILY DEDUCTION**

A single deduction of ~~\$525~~400 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-III.D. HEALTH AND MEDICAL CARE EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i) and 5.603(b)]**

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

~~This medical expense~~ deduction is permitted only for families in which the head, spouse, or cohead is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted ~~[VG, p. 28]~~.

#### **Definition of Medical Expenses**

HUD regulations define health and medical care expenses at 24 CFR 5.603(b) to mean "~~medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance.~~"any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed." Medical insurance premiums continue to be

eligible health and medical care expenses. Health and medical care expenses may be deducted from annual income only if they are eligible and not otherwise reimbursed and may only be deducted for elderly or disabled families.

Although HUD revised the definition of *health and medical care expenses* to reflect the Internal Revenue Service (IRS) general definition of medical expenses, HUD is not permitting PHAs to specifically align their policies with IRS Publication 502 for determining which expenses are included in HUD’s mandatory deduction for health and medical care expenses. PHAs must review each expense to determine whether it is eligible in accordance with HUD’s definition of *health and medical care expenses*.

PHA Policy

The most current IRS Publication 502, *Medical and Dental Expenses*, will be used as a reference to determine the costs that qualify as medical expenses.

<b>Summary of Allowable Medical Expenses from IRS Publication 502</b>	
Services of medical professionals	Psychiatric treatment
Surgery and medical procedures that are necessary, legal, noncosmetic	Ambulance services and some costs of transportation related to medical expenses
Services of medical facilities	The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth)
Hospitalization, long-term care, and in-home nursing services	Cost and continuing care of necessary service animals
Prescription medicines and insulin, but <u>not</u> nonprescription medicines even if recommended by a doctor	Medical insurance premiums or the cost of a health maintenance organization (HMO)
Improvements to housing directly related to medical needs (e.g., ramps for a wheel chair, handrails)	
Substance abuse treatment programs	
<b>Note:</b> This chart provides a summary of eligible medical expenses only. Detailed information is provided in IRS Publication 502. Medical expenses are considered only to the extent they are not reimbursed by insurance or some other source.	

**Families That Qualify for Both Health and Medical and Disability Assistance Expenses**

PHA Policy

This policy applies only to families in which the head, spouse, or cohead is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either a health and medical care or disability assistance expenses, the PHA will consider them health and medical care expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

**6-III.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)]**

Unreimbursed Reasonable expenses for attendant care and auxiliary apparatus for each member of the family who is a person with disabilities ~~a disabled family member~~ may be deducted if they: (1) are necessary to enable a family member 18 years or older to work, (2) are not paid to a family member or reimbursed by an outside source, (3) in combination with any medical expenses, exceed ~~ten~~<sup>three</sup> percent of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.

### **Earned Income Limit on the Disability Assistance Expense Deduction**

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)]. The disability expense deduction is capped by the amount of “earned income received by family members who are 18 years of age or older and who are able to work” because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

### PHA Policy

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family’s request, the PHA will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

When the PHA determines that the disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members’ incomes.

### **Eligible Disability Expenses**

~~Examples of auxiliary apparatus are provided in the HCV Guidebook as follows: “Auxiliary apparatus are items such as wheelchairs, ramps, adaptations to vehicles, or special equipment to enable a blind person to read or type, but only if these items are directly related to permitting the disabled person or other family member to work” [HCV-GB, p. 5-30].~~

~~HUD advises PHAs to further define and describe auxiliary apparatus [VG, p. 30].~~

### **Eligible Auxiliary Apparatus** [Notice PIH 2023-27]

Auxiliary apparatus items may include expenses for wheelchairs, ramps, adaptations to vehicles, guide dogs, assistance animals, or special equipment to enable a person who is blind or has low vision to read or type or special equipment to assist a person who is deaf or hard of hearing.

### PHA Policy

~~Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost of service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.~~

### **Eligible Attendant Care** [Notice PIH 2023-27]

Examples of attendant care expenses can include teaching a person with disabilities how to perform day-to-day tasks independently like cleaning, bathing, doing laundry, and cooking.

Attendant care can be 24-hour care, or care during sporadic periods throughout the day. The family determines the type of attendant care that is appropriate for the person with disabilities.

#### PHA Policy

~~Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.~~

Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities to work are eligible.

If the care attendant also provides other services to the family, the PHA will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

#### ***Payments to Family Members***

No disability assistance expenses may be deducted for payments to a member of an assisted family [24 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the assisted family may be deducted if they are not reimbursed by an outside source.

#### **Necessary and Reasonable Expenses**

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

#### PHA Policy

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

#### **Families That Qualify for Both Health and Medical and Disability Assistance Expenses**

#### PHA Policy

This policy applies only to families in which the head or spouse is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either health and medical care or disability assistance expenses, the PHA will consider them health and medical care expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

### **6-III.G. HARDSHIP EXEMPTIONS [24 CFR 5.611(c), (d), and (e)]**

#### **Health and Medical Care and Disability Assistance Expenses [24 CFR 5.611(c);**

#### **Notice PIH 2023-27]**

The regulations provide for two types of hardship exemption categories for families that qualify for unreimbursed health and medical care expenses and/or disability assistance expenses. A family will benefit from this hardship exemption only if the family has eligible expenses that can be deducted in excess of five percent of annual income. In order to claim unreimbursed health

and medical care expenses, the family must have a head, cohead, or spouse that is elderly or a person with a disability. In order to claim unreimbursed reasonable attendant care and auxiliary apparatus expenses, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed.

Families may be eligible for relief under one of two categories; phased-in relief or general relief, as defined below.

### **Phased-In Relief**

The first category is applicable to all families who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on their most recent income review. The family must receive phased-in relief if they are determined to be eligible. These families will begin receiving a 24-month phased-in relief at their next annual or interim reexamination, whichever occurs first.

For these families, the threshold amount is phased-in as follows:

- The family is eligible for a deduction totaling the sum of expenses that exceeds 5 percent of annual income for the first 12 months.
- At the conclusion of 12 months, the family is eligible for a deduction totaling the sum of their expenses that exceed 7.5 percent of annual income for another 12 months.
- At the conclusion of 24 months, the standard threshold amount of 10 percent would be used, unless the family qualifies for relief under the general hardship relief category.
  - When an eligible family's phased-in relief begins at an interim reexamination, the PHA will need to process another transaction one year later to move the family along to the next phase. The transaction can be either an interim reexamination if triggered, or a non-interim reexamination transaction.

Prior to the end of the 24-month period, the family may request a hardship exemption under the second category as described below. If the family is found eligible under the second category, the hardship exemption under the first category ends, and the family's hardship is administered in accordance with the requirements listed below. Once a family requests general relief, the family may no longer receive phased-in relief.

PHAs must track the 24-month phase-period for each eligible family, even if a family's expenses go below the appropriate phase-in percentage, during the first or second 12-month phase-in period. The phase-in must continue for families who move to another public housing unit at the same PHA. When the family is treated as a new admission under a different property/program (e.g., the family moves from public housing to the HCV program), unless the PHA has a written policy to continue the phased-in relief upon admission, the family's expense deduction will be calculated using the 10-percent threshold unless request for general relief is approved by the PHA. When a family moves with continued assistance or ports to a new PHA, the family must continue to receive the phased-in relief. The family must receive the remaining calendar months of the percentage phase-in. The PHA must use the existing phase-in documentation to determine the remaining calendar months and the percentage phase-in.

#### PHA Policy

The PHA will not continue the phased-in relief for families who move from public housing to HCV. These families will be treated as new admissions and the sum of

expenses that exceeds 10 percent of annual income will be used to calculate their adjusted income.

### **General Relief**

The second category is for families that can demonstrate:

- Their health and medical and/or disability assistance expenses increased (other than the transition to the higher threshold); or
- The family's financial hardship is a result of a change in circumstances (as defined in PHA policy) that would not otherwise trigger an interim reexamination.

The family may request a hardship exemption under the second category regardless of whether the family previously received the health and medical and/or disability assistance deductions or are currently or were previously receiving relief under the phased-in relief category above. HUD requires that PHAs develop policies defining what constitutes a hardship for purposes of this exemption.

The PHA must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. PHAs must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

### **PHA Policy**

To qualify for a hardship exemption, a family must submit a request in writing. The request must show that the family's health and medical and/or disability assistance expenses have increased (other than the transition to the higher threshold) and that the family's financial hardship is a result of a change in circumstances. The PHA defines a *change in circumstances* as a decrease in income or increase in other expenses that has resulted in the family's financial hardship but does not, on its own, trigger an interim reexam in accordance with PHA policies.

Examples of circumstances constituting a financial hardship may include the following situations:

The family is awaiting an eligibility determination for a federal, state, or local assistance program, such as a determination for unemployment compensation or disability benefits;

The family's income decreased because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster; or

Other circumstances as determined by the PHA.

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, the PHA will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

The PHA must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions. The notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)].

PHA Policy

The PHA will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

If the PHA denies the hardship exemption request, the PHA notice will also state that if the family does not agree with the PHA determination, the family may request a hearing.

If the family qualifies for an exemption, the PHA will include the date the hardship exemption will begin and the date it will expire as well as information on how to request a 90-day extension based on family circumstances.

If the family qualifies, the family will receive a deduction for the sum of eligible expenses that exceed [five](#) percent of annual income.

The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever is earlier. However, the PHA may, at its discretion, extend the relief for one or more additional 90-day periods while the family's hardship condition continues. PHAs are not limited to a maximum number of 90-day extensions. PHAs must establish written policies regarding the types of circumstances that will allow a family to qualify for a financial hardship and when such deductions may be eligible for additional 90-day extensions. PHAs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

PHA Policy

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The PHA will extend relief for an additional 90-days if the family demonstrates to the PHA's satisfaction that the family continues to qualify for the hardship exemption based on circumstances described above. The PHA will require updated verification based on the family's current circumstances. Additional extension(s) may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the PHA may terminate the hardship exemption if the PHA determines that the family no longer qualifies for the exemption.

**Child Care Expense Hardship Exemption [24 CFR 5.611(d) and Notice PIH 2023-27]**

A family whose eligibility for the child care expense deduction is ending may request a financial hardship exemption to continue receiving the deduction. If the family demonstrates to the PHA's satisfaction that the family is unable to pay their rent because of the loss of the child care expense deduction, and that the child care expense is still necessary even though the family member is [not working, looking for work, or seeking to further their education](#), the PHA must recalculate the family's adjusted income and continue the child care deduction.

The PHA must develop a policy to define what constitutes a hardship, which includes the family's inability to pay rent. The PHA must obtain third-party verification of the hardship or

must document in the file the reason third-party verification was not available. PHAs must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

#### PHA Policy

For a family to qualify, they must demonstrate that their inability to pay rent would be as a result of the loss of this deduction. The PHA defines this hardship as a potential decrease in income or increase in other expenses that would result from the loss of the child care expense and such loss would impact the family's ability to pay their rent. Some factors to consider when determining if the family is unable to pay rent may include determining that the rent, utility payment, and applicable expenses (child care expenses or health and medical expenses) are more than 40 percent of the family's adjusted income, or verifying whether the family has experienced unanticipated expenses, such as large medical bills, that have affected their ability to pay their rent.

The family must also demonstrate that the child care expense is still necessary even though the family member is no longer employed or furthering their education. The PHA will consider qualification under this criterion on a case-by case basis (for example, if the family member who was employed has left their job in order to provide uncompensated care to an elderly friend or family member who is severely ill and lives across town). The family must provide third-party verification of the hardship with the request. If third-party verification is not available, the PHA will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

The PHA must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions.

If the PHA denies the request, the notice must specifically state the reason for the denial. PHAs must provide families 30 days' notice of any increase in rent.

If the PHA approves the request, the notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)]. The notice must also state the requirement for the family to report to the PHA if the circumstances that made the family eligible for relief are no longer applicable and that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption [Notice PIH 2023-27].

#### PHA Policy

The PHA will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

If the PHA denies the hardship exemption request, the PHA notice will also state that if the family does not agree with the PHA determination, the family may request an informal hearing.

If the family qualifies for an exemption, the PHA will include all required information listed above as well as information on how to request a 90-day extension based on family circumstances.

If the family qualifies, the hardship exemption and the resulting alternative adjusted income calculation must remain in place for a period of up to 90 days.



The PHA may, at its discretion, extend the hardship exemptions for additional 90-day periods based on family circumstances and as stated in PHA policies. PHAs are not limited to a maximum number of 90-day extensions. PHAs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

PHAs must promptly notify families in writing if they are denied either an initial hardship exemption or an additional 90-day extension of the exemption. If the PHA denies the request, the notice must specifically state the reason for the denial.

PHAs must notify the family if the hardship exemption is no longer necessary and the hardship exemption will be terminated because the circumstances that made the family eligible for the exemption are no longer applicable. The notice must state the termination date and provide 30 days' notice of rent increase, if applicable.

#### PHA Policy

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The PHA will extend relief for an additional 90-days if the family demonstrates to the PHA's satisfaction that the family continues to qualify for the hardship exemption. The PHA will require updated verification based on the family's current circumstances. Additional extension may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the PHA may terminate the hardship exemption if the PHA determines that the family no longer qualifies for the exemption.

### **6-III.H. PERMISSIVE DEDUCTIONS [24 CFR 5.611(b)(1)(ii)]**

The PHA may adopt additional permissive deductions from annual income if they establish a policy in the administrative plan. Permissive deductions are additional, optional deductions that may be applied to annual income. As with mandatory deductions, permissive deductions must be based on need or family circumstance and deductions must be designed to encourage self-sufficiency or other economic purpose. If the PHA offers permissive deductions, they must be granted to all families that qualify for them and should complement existing income exclusions and deductions [PH Occ GB, p. 128] Permissive deductions may be used to incentivize or encourage self-sufficiency and economic mobility.

A PHA that adopts such deductions must have sufficient funding to cover the increased housing assistance payment cost of the deductions. A PHA will not be eligible for an increase in HCV renewal funding for subsidy costs resulting from such deductions.

#### PHA Policy

The PHA has opted not to use permissive deductions.

## EXHIBIT 6-1: ANNUAL INCOME INCLUSIONS

### 24 CFR 5.609

*(a) Annual income means all amounts, monetary or not, which:*

- (1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
- (2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
- (3) Which are not specifically excluded in paragraph (c) of this section.
- (4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

*(b) Annual income includes, but is not limited to:*

- (1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
- (2) The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;

- (3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;
- (4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);
- (5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);

~~(6) Welfare assistance payments:~~

~~(i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:~~

~~(A) Qualify as assistance under the TANF program definition at 45 CFR 260.31<sup>+</sup>; and~~

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

~~(ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:~~

~~(A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus~~

~~(B) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.~~

~~(7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;~~

~~(8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section)~~

~~(9) For section 8 programs only and as provided in 24 CFR 5.612, any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, "financial assistance" does not include loan proceeds for the purpose of determining income.~~

#### **HHS DEFINITION OF "ASSISTANCE"**

#### **45-CFR: GENERAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES**

#### **260.31 What does the term "assistance" mean?**

~~(a)(1) The term "assistance" includes cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses).~~

~~(2) It includes such benefits even when they are:~~

~~(i) Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and~~

~~(ii) Conditioned on participation in work experience or community service (or any other work activity under 261.30 of this chapter).~~

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<sup>+</sup> Text of 45 CFR 260.31 follows.

~~(3) Except where excluded under paragraph (b) of this section, it also includes supportive services such as transportation and child care provided to families who are not employed.~~

~~(b) [The definition of “assistance”] excludes: (1) Nonrecurrent, short-term benefits that:~~

~~(i) Are designed to deal with a specific crisis situation or episode of need;~~

~~(ii) Are not intended to meet recurrent or ongoing needs; and~~

~~(iii) Will not extend beyond four months.~~

~~(2) Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);~~

~~(3) Supportive services such as child care and transportation provided to families who are employed;~~

~~(4) Refundable earned income tax credits;~~

~~(5) Contributions to, and distributions from, Individual Development Accounts;~~

~~(6) Services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and~~

~~(7) Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of [the Social Security] Act, to an individual who is not otherwise receiving assistance.~~

**EXHIBIT 6-12: ANNUAL INCOME EXCLUSIONS FULL DEFINITION**

**24 CFR 5.609**

(a) Annual income includes, with respect to the family:

(1) All amounts, not specifically excluded in paragraph (b) of this section, received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse of the head of household, plus unearned income by or on behalf of each dependent who is under 18 years of age, and

(2) When the value of net family assets exceeds \$50,000 (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and the actual returns from a given asset cannot be calculated, imputed returns on the asset based on the current passbook savings rate, as determined by HUD.

(b) Annual income does not include the following:

(1) Any imputed return on an asset when net family assets total \$50,000 or less (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and no actual income from the net family assets can be determined.

(2) The following types of trust distributions:

(i) For an irrevocable trust or a revocable trust outside the control of the family or household excluded from the definition of net family assets under § 5.603(b):

(A) Distributions of the principal or corpus of the trust; and

(B) Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.

(ii) For a revocable trust under the control of the family or household, any distributions from the trust; except that any actual income earned by the trust, regardless of whether it is distributed, shall be considered income to the family at the time it is received by the trust.

(3) Earned income of children under the 18 years of age.

(4) Payments received for the care of foster children or foster adults, or State or Tribal kinship or guardianship care payments.

(5) Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation.

(6) Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member.

(7) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled.

(8) Income of a live-in aide, foster child, or foster adult as defined in §§ 5.403 and 5.603, respectively.

(9)

(i) Any assistance that section 479B of the Higher Education Act of 1965, as amended (20 U.S.C. 1087uu), requires be excluded from a family's income; and

(ii) Student financial assistance for tuition, books, and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and other fees required and charged to a student by an institution of higher education (as defined under Section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

(A) Student financial assistance, for purposes of this paragraph (9)(ii), means a grant or scholarship received from— (

1) The Federal government;

(2) A State, Tribe, or local government;

(3) A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);

(4) A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or

(5) An institution of higher education.

(B) Student financial assistance, for purposes of this paragraph (9)(ii), does not include—

(1) Any assistance that is excluded pursuant to paragraph (b)(9)(i) of this section;

(2) Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded pursuant to paragraph (b)(9)(i) of this section); (

3) Gifts, including gifts from family or friends; or

(4) Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under this paragraph or paragraph (b)(9)(i), exceeds the actual covered costs of the student. The actual covered costs of the student are the actual costs of tuition, books and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, or other fees required and charged to a student by the education institution, and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit. This calculation is described further in paragraph (b)(9)(ii) of this section.

(C) Student financial assistance, for purposes of this paragraph (b)(9)(ii) must be:

(1) Expressly for tuition, books, room and board, or other fees required and charged to a student by the education institution;

(2) Expressly to assist a student with the costs of higher education; or

(3) Expressly to assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the education institution and not residing in an assisted unit.

(D) Student financial assistance, for purposes of this paragraph (b)(9)(ii), may be paid directly to the student or to the educational institution on the student's behalf. Student financial assistance paid to the student must be verified by the responsible entity as student financial assistance consistent with this paragraph (b)(9)(ii).

(E) When the student is also receiving assistance excluded under paragraph (b)(9)(i) of this section, the amount of student financial assistance under this paragraph (b)(9)(ii) is determined as follows:

(1) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is equal to or exceeds the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, none of the assistance described in this paragraph (b)(9)(ii) of this section is considered student financial assistance excluded from income under this paragraph (b)(9)(ii)(E).

(2) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is less than the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, the amount of assistance described in paragraph (b)(9)(ii) of this section that is considered student financial assistance excluded under this paragraph is the lower of:

(i) the total amount of student financial assistance received under this paragraph (b)(9)(ii) of this section, or

(ii) the amount by which the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section exceeds the assistance excluded under paragraph (b)(9)(i) of this section.

(10) Income and distributions from any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and income earned by government contributions to, and distributions from, “baby bond” accounts created, authorized, or funded by Federal, State, or local government.

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

(12)

(i) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

(ii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;

(iii) Amounts received under a resident service stipend not to exceed \$200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development.

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

(13) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era.

(14) Earned income of dependent fulltime students in excess of the amount of the deduction for a dependent in § 5.611.

(15) Adoption assistance payments for a child in excess of the amount of the deduction for a dependent in § 5.611.

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

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

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

(19) Payments made by or authorized by a State Medicaid agency (including through a managed care entity) or other State or Federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit. Authorized payments may include payments to a member of the assisted family through the State Medicaid agency (including through a managed care entity) or other State or Federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family's assisted unit.

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

(21) Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other Federal law.

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

(23) Replacement housing "gap" payments made in accordance with 49 CFR part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another Federally subsidized housing unit. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments.

(24) Nonrecurring income, which is income that will not be repeated in the coming year based on information provided by the family. Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under this paragraph, even if the source, date, or amount of the income varies. Nonrecurring income includes:

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

(ii) Direct Federal or State payments intended for economic stimulus or recovery.

(iii) Amounts directly received by the family as a result of State refundable tax credits or State tax refunds at the time they are received.



(iv) Amounts directly received by the family as a result of Federal refundable tax credits and Federal tax refunds at the time they are received.

(v) Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries).

(vi) Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.

(vii) Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings.

(25) Civil rights settlements or judgments, including settlements or judgments for back pay.

(26) Income received from any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; except that any distribution of periodic payments from such accounts shall be income at the time they are received by the family.

(27) Income earned on amounts placed in a family's Family Self Sufficiency Account.

(28) Gross income a family member receives through self-employment or operation of a business; except that the following shall be considered income to a family member:

(i) Net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations; and

(ii) Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the

withdrawal is reimbursement of cash or assets invested in the operation by the family.

*(e) Annual income does not include the following:*

(1) Income from employment of children (including foster children) under the age of 18 years;

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

(3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);

(4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;

(5) Income of a live-in aide, as defined in Sec. 5.403;

(6) Subject to paragraph (b)(9) of this section, the full amount of student financial assistance paid directly to the student or to the educational institution;

(7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;

(8) (i) Amounts received under training programs funded by HUD;

(ii) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

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

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

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

(9) Temporary, nonrecurring or sporadic income (including gifts);

(10) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;

(11) Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);

(12) Adoption assistance payments in excess of \$480 per adopted child;

(13) [Reserved]

(14) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or prospective monthly amounts.

(15) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;

~~(16) Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or~~

~~(17) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any~~

~~program to which the exclusions set forth in 24 CFR 5.609(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 Section 6-I.M. for a list of benefits that qualify for this exclusion.]~~

## EXHIBIT 6-23: TREATMENT OF FAMILY ASSETS

### 24 CFR 5.603(b) Net Family Assets

(1) Net family assets is the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment.

(2) In determining net family assets, PHAs or owners, as applicable, must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

(3) Excluded from the calculation of net family assets are: (i) The value of necessary items of personal property; (ii) The combined value of all nonnecessary items of personal property if the combined total value does not exceed \$50,000 (which amount will be adjusted by HUD in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers); (iii) The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; (iv) The value of real

property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located; (v) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability; (vi) The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986, the value of any qualified tuition program under section 529 of such Code, the value of any Achieving a Better Life Experience (ABLE) account authorized under Section 529A of such Code, and the value of any "baby bond" account created, authorized, or funded by Federal, State, or local government. (vii) Interests in Indian trust land; (viii) Equity in a manufactured home where the family receives assistance under 24 CFR part 982; (ix) Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982; (x) Family Self-Sufficiency Accounts; and (xi) Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family.

(4) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the trust fund is not a family asset and the value of the trust is not included in the calculation of net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household. ~~Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of~~

necessary items of personal property such as furniture and automobiles shall be excluded.

(2) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under Sec. 5.609.

(3) In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

(4) For purposes of determining annual income under Sec. 5.609, the term "net family assets" does not include the value of a home currently being purchased with assistance under part 982, subpart M of this title. This exclusion is limited to the first 10 years after the purchase date of the home.

**EXHIBIT 6-4: EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES**

**24 CFR 5.617 Self-sufficiency incentives for persons with disabilities—Disallowance of increase in annual income.**

*(a) Applicable programs.* The disallowance of earned income provided by this section is applicable only to the following programs: HOME Investment Partnerships Program (24 CFR part 92); Housing Opportunities for Persons with AIDS (24 CFR part 574); Supportive Housing Program (24 CFR part 583); and the Housing Choice Voucher Program (24 CFR part 982).

*(b) Definitions.* The following definitions apply for purposes of this section.

*Baseline income.* The annual income immediately prior to implementation of the disallowance described in paragraph (c)(1) of this section of a person with disabilities (who is a member of a qualified family).

*Disallowance.* Exclusion from annual income.

*Previously unemployed* includes a person with disabilities who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

*Qualified family.* A family residing in housing assisted under one of the programs listed in paragraph (a) of this section or receiving tenant-based rental assistance under one of the programs listed in paragraph (a) of this section.

(1) Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;

(2) Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or

(3) Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare to Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance—provided that the total amount over a six-month period is at least \$500.

~~(c) Disallowance of increase in annual income—~~

~~(1) Initial twelve month exclusion. During the 12-month period beginning on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income (as defined in the regulations governing the applicable program listed in paragraph (a) of this section) of a qualified family any increase in income of the family member who is a person with disabilities as a result of employment over prior income of that family member.~~

~~(2) Second twelve month exclusion and phase-in. Upon expiration of the 12-month period defined in paragraph (c)(1) of this section and for the subsequent 12-month period, the responsible entity must exclude from annual income of a qualified family at least 50 percent of any increase in income of such family member as a result of employment over the family member's baseline income.~~

~~(3) Maximum 2-year disallowance. The disallowance of increased income of an individual family member who is a person with disabilities as provided in paragraph (c)(1) or (c)(2) of this section is limited to a lifetime 24-month period. The disallowance applies for a maximum of 12 months for disallowance under paragraph (c)(1) of this section and a maximum of 12 months for disallowance under paragraph (c)(2) of this section, during the 24-month period starting from the initial exclusion under paragraph (c)(1) of this section.~~

~~(4) Effect of changes on currently participating families. Families eligible for and participating in the disallowance of earned income under this section prior to May 9, 2016 will continue to be governed by this section in effect as it existed immediately prior to that~~

~~date (see 24 CFR parts 0 to 199, revised as of April 1, 2016).~~

~~(d) Inapplicability to admission. The disallowance of increases in income as a result of employment of persons with disabilities under this section does not apply for purposes of admission to the program (including the determination of income eligibility or any income targeting that may be applicable).~~

## Chapter 7

### VERIFICATION

[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230, Notice PIH ~~2018-18~~2023-27]

#### INTRODUCTION

The PHA must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain written authorization from the family in order to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. The PHA must not pass on the cost of verification to the family.

The PHA ~~will~~ must follow the verification guidance provided by HUD in Notice PIH ~~2018-18~~2023-27 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary PHA policies.

Part I describes the general verification process. Part II provides more detailed requirements related to family information. Part III provides information on income and assets, and Part IV covers mandatory deductions.

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies of the PHA.

#### PART I: GENERAL VERIFICATION REQUIREMENTS

##### 7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 982.516; ~~AND~~ 982.551; CFR 5.230; and Notice PIH 2023-27]

###### Consent Forms

The family must supply any information that the PHA or HUD determines is necessary to the administration of the program and must consent to PHA verification of that information [24 CFR 982.551]. All adult family members must sign consent forms as needed to collect information relevant to the family's eligibility and level of assistance. While PHAs must use form HUD-9886, this form does not release all the information necessary to the administration of the program. The PHA must also develop its own release forms to cover all other necessary information.

###### ~~Consent Forms~~ Form HUD-9886 [24 CFR 5.230(b)(1), b(2), (c)(4), and (c)(5)]; Notice PIH 2023-27

~~It is required that~~ All adult applicants and participants sign form HUD-9886, Authorization for Release of Information. All adult family members (and the head and spouse/cohead, regardless of age) are required to sign the Form HUD-9886 at admission. Participants, prior to January 1, 2024, signed and submitted Form HUD-9886 at each annual reexamination. HOTMA eliminated this requirement and instead required that the Form HUD-9886 be signed only once. On or after January 1, 2024 (regardless of the PHA's HOTMA compliance date), current program participants must sign and submit a new Form HUD-9886 at their next interim or annual reexamination. This form will only be signed once. Another Form HUD-9886 will not be submitted to the PHA except under the following circumstances:

- When any person 18 years or older becomes a member of the family;



- When a current member of the family turns 18; or

- As required by HUD or the PHA in administrative instructions.

The PHA has the discretion to establish policies around when family members must sign consent forms when they turn 18. PHAs must establish these policies stating when family members will be required to sign consent forms at intervals other than at reexamination.

#### PHA Policy

Family members turning 18 years of age between annual recertifications will be notified in writing that they are required to sign the required Consent to the Release of Information Form HUD-9886 at the family's next annual or interim reexamination, whichever is earlier.

The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the PHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). ~~Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.~~

The PHA may obtain any financial record from any financial institution, as the terms financial record and financial institution are defined in the Right to Financial Privacy Act (12 U.S.C. 3401), whenever the PHA determines the record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits [24 CFR 5.230(c)(4)].

The executed form will remain effective until the family is denied assistance, assistance is terminated, or the family provides written notification to the PHA to revoke consent.

#### **Penalties for Failing to Consent [24 CFR 5.232]**

If any family member who is required to sign a consent form fails to do so, the PHA must ~~will~~ deny admission to applicants and terminate assistance of participants. The family may request an informal review (applicants) or informal hearing (participants) in accordance with PHA procedures.

However, this does not apply if the applicant, participant, or any member of their family, revokes their consent with respect to the ability of the PHA to access financial records from financial institutions, unless the PHA establishes a policy that revocation of consent to access financial records will result in denial or termination of assistance or admission [24 CFR 5.232(c)]. PHAs may not process interim or annual reexaminations of income without the family's executed consent forms.

#### PHA Policy

The PHA has established a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance in accordance with PHA policy.

In order for a family to revoke their consent, the family must provide written notice to the PHA.

Within 10 business days of the date the family provides written notice, the PHA will send the family a notice acknowledging receipt of the request and explaining that revocation of consent will result in denial or termination of assistance, as applicable. At the same time, the PHA will notify their local HUD office.

## **7-I.B. USE OF OTHER PROGRAMS' INCOME DETERMINATIONS**

### **[24 CFR 5.609(c)(3) and Notice PIH 2023-27]**

PHAs may, but are not required to, determine a family's annual income, including income from assets, prior to the application of any deductions, based on income determinations made within the previous 12-month period, using income determinations from means-tested federal public assistance programs. PHAs are not required to accept or use determinations of income from other federal means-tested forms of assistance. If the PHA adopts a policy to accept this type of verification, the PHA must establish in policy when they will accept Safe Harbor income determinations and from which programs. PHAs must also create policies that outline the course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs.

Means-tested federal public assistance programs include:

- Temporary Assistance for Needy Families (TANF) (42 U.S.C. 601, et seq.);
- Medicaid (42 U.S.C. 1396 et seq.);
- Supplemental Nutrition Assistance Program (SNAP) (42 U.S.C. 2011 et seq.);
- Earned Income Tax Credit (EITC) (26 U.S.C. 32);
- Low-Income Housing Credit (LIHTC) program (26 U.S.C. 42);
- Special Supplemental Nutrition Program for Woman, Infants, and Children (WIC) (42 U.S.C. 1786);
- Supplemental Security Income (SSI) (42 U.S.C. 1381 et seq.);
- Other programs administered by the HUD Secretary;
- Other means-tested forms of federal public assistance for which HUD has established a memorandum of understanding; and
- Other federal benefit determinations made in other forms of means-tested federal public assistance that the Secretary determines to have comparable reliability and announces through the *Federal Register*.

If the PHA elects to use the annual income determination from one of the above-listed forms of means-tested federal public assistance, then they must obtain the income information by means of a third-party verification. The third-party verification must state the family size, must be for the entire family, and must state the amount of the family's annual income. The annual income need not be broken down by family member or income type. Annual income includes income earned from assets, therefore when using Safe Harbor to verify a family's income, PHAs will neither further inquire about a family's net family assets, nor about the income earned from those assets, except with respect to whether or not the family owns assets that exceed the asset limitation in 24 CFR 5.618. The Safe Harbor documentation will be considered acceptable if any of the following dates fall into the 12-month period prior to the receipt of the documentation by the PHA:

- Income determination effective date;
- Program administrator's signature date;

- Family's signature date;
- Report effective date; or
- Other report-specific dates that verify the income determination date.

The only information that PHAs are permitted to use to determine income under this method is the total income determination made by the federal means-tested program administrator. Other federal programs may provide additional information about income inclusions and exclusions in their award letters; however, these determinations and any other information must not be considered by the PHA. PHAs are not permitted to mix and match Safe Harbor income determinations and other income verifications.

If the PHA is unable to obtain Safe Harbor documentation or if the family disputes the other program's income determination, the PHA must calculate the family's annual income using traditional methods as outlined in Notice PIH 2023-27 and this chapter.

If the PHA uses a Safe Harbor determination to determine the family's income, the family is obligated to report changes in income that meet the PHA's reporting requirement and occur after the effective date of the transaction.

The amounts of unreimbursed reasonable attendant care expenses and child-care expenses deducted from a family's annual income, except for when a family is approved for a child-care expense hardship exemption, must still be capped by the amount earned by any family member who is enabled to work as a result of the expense. PHAs are therefore required to obtain third-party verification of the applicable employment income and cap the respective expense deductions accordingly.

#### PHA Policy

When available and applicable, the PHA will accept other programs' Safe Harbor determinations of income at annual reexamination to determine the family's total annual income. The PHA will still require third-party verification of all deductions such as the health and medical care expense or child care expense deductions. Further, if the family is eligible for and claims the disability assistance expense or child care expense deductions, where applicable, the PHA will obtain third-party verification of the amount of employment income of the individual(s) enabled to work in order to cap the respective expenses as required.

Prior to using any Safe Harbor determination from another program, the PHA will ask the family if they agree with the income amounts listed. If the family disputes the income amounts on the Safe Harbor determination, the PHA will obtain third-party verification of all sources of income and assets (as applicable).

The PHA will not accept other programs' determinations of income for any new admission or interim reexamination.

With the exception of income determinations made under the Low-Income Housing Tax Credit (LIHTC) program, the PHA will accept Safe Harbor determinations from any of the programs listed above.

In order to be acceptable, the income determination must:

- Be dated within 12 months of the dates listed above;
- State the family size

Be for the entire family (i.e., the family members listed in the documentation must match the family's composition in the assisted unit, except for household members); and  
Must state the amount of the family's annual income.

The determination need not list each source of income individually. If the PHA does not receive any acceptable income determination documentation or is unable to obtain documentation, then the PHA will revert to third-party verification of income for the family.

When families present multiple verifications from the same or different acceptable Safe Harbor programs, the PHA will use the most recent income determination, unless the family presents acceptable evidence that the PHA should consider an alternative verification from a different Safe Harbor source.

When the PHA uses a Safe Harbor income determination from another program, and the family's income subsequently changes, the family is required to report the change to the PHA. Depending on when the change occurred, the change may or may not impact the PHA's calculation of the family's total annual income. Changes that occur between the time the PHA receives the Safe Harbor documentation and the effective date of the family's annual reexam will not be considered. If the family has a change in income that occurs after the annual reexam effective date, the PHA will conduct an interim reexam if the change meets the requirements for performing an interim reexamination as outlined in Chapter 11. In this case, the PHA will use third-party verification to verify the change.

#### **7-I.C. STREAMLINED INCOME DETERMINATIONS [24 CFR 960.257(c); Notice PIH 2023-27]**

HUD permits PHAs to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained during the intake process and every three years thereafter, in the intervening years, the PHA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or other inflationary adjustment factor. Streamlining policies are optional. The PHA may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the PHA must perform third-party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

Two streamlining options are available, depending upon the percentage of the family's income that is received from fixed sources.

When 90 percent or more of a family's unadjusted income is from fixed sources, the PHA may apply the inflationary adjustment factor to the family's fixed-income sources, provided that the family certifies both that 90 percent or more of their unadjusted income is fixed and that their sources of fixed income have not changed from the previous year. Sources of non-fixed income are not required to be adjusted and must not be adjusted by a COLA, but PHAs may choose to adjust sources of non-fixed income based on third-party verification. PHAs have the discretion to

either adjust the non-fixed income or carry over the calculation of non-fixed income from the first year to years two and three.

When less than 90 percent of a family's unadjusted income consists of fixed income, PHAs may apply a COLA to each of the family's sources of fixed income. PHAs must determine all other income using standard verification requirements as outlined in Notice PIH 2023-27.

#### PHA Policy

When the PHA does not use a Safe Harbor income determination from a federal assistance program to determine the family's annual income as outlined above, then PHA will use a streamlined income determinations where applicable.

If 90 percent or more of a family's unadjusted income is from fixed income sources:

The PHA will streamline the annual reexamination process by applying the verified inflationary adjustment factor to fixed-income sources.

The family will be required to sign a self-certification stating that 90 percent or more of their unadjusted income is fixed income and that their sources of fixed income have not changed from the previous year.

The PHA will document in the file how the determination that a source of income was fixed was made.

Third-party verification of non-fixed income will be obtained annually regardless of the percentage of family income received from fixed sources.

If the family's sources of fixed income have changed from the previous year, the PHA will obtain third-party verification of any new sources of fixed income.

When less than 90 percent of a family's unadjusted income consists of fixed income:

The PHA will apply a COLA to each of the family's sources of fixed income.

All other income will be verified using third-party verification as outlined in Notice PIH 2023-27 and Chapter 7 of this policy.

In the following circumstances, regardless of the percentage of income received from fixed sources, the PHA will obtain third-party verification as outlined in Notice PIH 2023-27 and Chapter 7 of this policy:

Of all assets when net family assets exceed \$50,000;

Of all deductions and allowances from annual income;

If a family member with a fixed source of income is added;

If verification of the COLA or rate of interest is not available;

During the intake process and at least once every three years thereafter.

#### **7-I.D. VERIFICATION HIERARCHY [Notice PIH 2023-27]**

When the PHA does not use a streamlined determination of income or an income determination from a means-tested federal assistance program, HUD requires the PHA to obtain third-party verification of:

- Reported family annual income;
- The value of net family assets when the net value exceeds \$50,000 (as adjusted annually);
- Expenses related to deductions from annual income; and
- Other factors that affect the determination of adjusted income.

#### **7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS**

### HUD's Verification Hierarchy [Notice PIH 2018-18]

HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the PHA to use the most reliable form of verification that is available and to document the reasons when the PHA uses a lesser form of verification. HUD developed a hierarchy that described verification documentation from most acceptable to least acceptable. The PHA must demonstrate efforts to obtain third party verification prior to accepting self-certification except instances when self-certification is explicitly allowed. In order of priority, the hierarchy is:

- Highest: Level 6: Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system
- Highest: Level 5: Up-front Income Verification (UIV) using a non-EIV system
- High: Level 4:
  - Written third-party verification from the source, also known as "family-provided verification"
  - Or EIV plus self-certification
- Medium: Level 3: Written third-party verification form
- Medium: Level 2: Oral third-party verification
- Low: Level 1: Self-certification (not third-party verification)

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

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

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

### Requirements for Acceptable Documents

#### PHA Policy

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

Printouts from webpages are considered original documents.

The PHA staff member who views the original document must make a photocopy.

Any family self-certifications must be made in a format acceptable to the PHA and must be signed by the family member whose information or status is being verified.

### File Documentation

The PHA must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the

verification process will be recorded in the family's file in sufficient detail to demonstrate that the PHA has followed all of the verification policies set forth in this plan. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

#### PHA Policy

The PHA will document, in the family file, the following:

Reported family annual income

Value of assets

Expenses related to deductions from annual income

Other factors influencing adjusted income

When the PHA is unable to obtain third-party verification, the PHA will document in the family file the reason that third-party verification was not available [24 CFR 982.516(a)(2); Notice PIH 2018-18].

### 7-I.C. 7-I.E. LEVEL 5 AND 6 VERIFICATION: UP-FRONT INCOME VERIFICATION (UIV)

Up-front income verification (UIV) refers to the PHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits for a number of individuals. PHAs may use UIV sources before or during a family reexamination.

UIV will be used to the extent that these systems are available to the PHA.

There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until the PHA has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of the PHA.

See Chapter 6 for the PHA's policy on the use of UIV/EIV to project annual income.

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

PHAs must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during annual and streamlined ~~mandatory~~ reexaminations ~~or recertifications~~ of family composition and income in accordance with 24 CFR 5.236 and Notice PIH 2023-27. ~~administrative guidance issued by HUD.~~

The HUD's EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families.

The income validation tool (IVT) in EIV provides projections of discrepant income for wages, unemployment compensation, and SSA benefits pursuant to HUD's data sharing agreements with other departments.

The following policies apply to the use of HUD's EIV system.

#### EIV Income and IVT Reports

PHAs are required to obtain an EIV Income and IVT report for each family any time the PHA conducts an annual reexamination. However, PHAs are not required to use the EIV Income and IVT reports:

- At annual reexamination if the PHA used Safe Harbor verification from another means-test federal assistance program to determine the family's income; or

- During any interim reexaminations.

The EIV Income and IVT Reports are also not available for program applicants at admission. When required to use the EIV Income Report, in order for the report to be considered current, the PHA must pull the report within 120 days of the effective date of the annual reexamination.

The EIV Income Report may be used to verify and calculate income at annual reexamination if the family self-certifies that the amount is accurate and representative of current income. The family must be provided with the information in EIV.

#### PHA Policy

Except for when Safe Harbor verification from another means-tested federal assistance program is used to determine the family's annual income, the PHA will obtain EIV income and IVT reports for all annual reexaminations for all families on a monthly basis. The PHA will ensure that all EIV Income Reports are pulled within 120 days of the effective date of the annual reexamination.

Income and IVT reports will only be used for interim reexaminations as necessary. For example, EIV may be used to verify that families claiming zero income are not receiving income from any sources listed in EIV.

Income and IVT reports will be retained in participant files with the applicable annual documents or interim reexamination documents (if applicable) for the duration of the family's participation.

When the PHA determines through EIV reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

#### **New Hires Report [Notice PIH 2023-27]**

The New Hires Report identifies participant families who have new employment within the last six months. The report is updated monthly.

PHAs must review this information at annual reexamination except when the PHA uses Safe Harbor verification from another means-tested federal assistance program to determine the family's income.

PHAs that do not require families to undergo interim reexaminations for earned income increases after an interim decrease are not required to review this report between a family's annual reexamination. If the PHA requires an interim for increases in earned income after an interim decrease, then the PHA must review the report quarterly after the family's interim decrease.

#### PHA Policy

In accordance with PHA policies in Chapter 11, the PHA does not process interim reexaminations for families who have increases in earned income. Except for instances in which the PHA uses Safe Harbor income determinations to determine a family's annual income, the PHA will only review the New Hires Report at annual reexamination.

#### **No Income Reported by HHS or SSA Report**

This report is a tool for PHAs to identify participants who passed the SSA identity test, but no income information was reported by either HHS or SSA records. This scenario does not mean that the participant does not have any income. PHAs obtain written, third-party verification of any income reported by the participant. The PHA must identify in its policies and procedures when this report will be pulled [Notice PIH 2023-27].

#### PHA Policy



The PHA will generate the No Income Reported by HHS or SSA Report quarterly and will retain the report.

The PHA will re-verify the status of participants identified on the report quarterly. Based on the information provided by the family and in EIV, the PHA may require that family members provide verifications or sign release forms in order to obtain additional verification.

When the PHA determines through this report and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity

The data shown on income and income validation tool (IVT) reports is updated quarterly. Data may be between 3 and 6 months old at the time reports are generated.

#### PHA Policy

The PHA will obtain income and IVT reports for annual reexaminations on a monthly basis. Reports will be generated as part of the regular reexamination process.

Income and IVT reports will be compared to family provided information as part of the annual reexamination process. Income reports may be used in the calculation of annual income, as described in Chapter 6 I.C. Income reports may also be used to meet the regulatory requirement for third party verification, as described above. Policies for resolving discrepancies between income reports and family provided information will be resolved as described in Chapter 6 I.C. and in this chapter.

Income and IVT reports will be used in interim reexaminations to identify any discrepancies between reported income and income shown in the EIV system, and as necessary to verify earned income, and to verify and calculate unemployment benefits, Social Security and/or SSI benefits. EIV will also be used to verify that families claiming zero income are not receiving income from any of these sources.

Income and IVT reports will be retained in participant files with the applicable annual or interim reexamination documents.

When the PHA determines through EIV reports and third party verification that a family has concealed or under reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

#### **EIV Identity Verification Report**

The EIV system verifies tenant identities against SSA records. These records are compared to PIC HUD data for a match on social security number, name, and date of birth.

PHAs are required to use EIV's *Identity Verification Report* on a monthly basis to improve the availability of income information in EIV [Notice PIH 2018-182023-27].

When identity verification for a participant fails, a message will be displayed within the EIV system and no income information will be displayed.

#### PHA Policy

The PHA will identify participants whose identity verification has failed by reviewing EIV's *Identity Verification Report* on a monthly basis.

The PHA will attempt to resolve PIC/SSA discrepancies by obtaining appropriate documentation from the participant. When the PHA determines that discrepancies exist due to as a result of PHA errors such as spelling errors or incorrect birth dates, ~~the errors will be corrected~~ it will correct the errors promptly.

**Deceased Tenants Reports [Notice PIH 2012-4 and Notice PIH 2023-27]**

The Deceased Tenant Report identifies residents that have been reported by the SSA as deceased. The PHA is required to review the report at least quarterly.

PHA Policy

The PHA will review the Deceased Tenants Report on a monthly basis.

When the Deceased Tenants Report identifies an individual as being deceased, PHAs must immediately send a letter to the head of household or emergency contact person (if the head of household is deceased and there is no other adult household member) to confirm the death of the listed household member. The PHA must notify the owner in writing of the deceased head of household.

PHAs may list the EOP as the last day of the month in which the death occurred. The landlord is entitled to receive the full HAP amount for the month in which the tenant death occurred.

PHA Policy

The PHA will list the EOP as the last day of the month in which the death occurred. The landlord is entitled to receive the full HAP amount for the month in which the tenant death occurred.

When the only remaining household member is the live-in aide, the live-in aide is not entitled or eligible for any rental assistance or continued occupancy. The PHA may not designate the live-in aide as the new head of household or change the relation code on the Form HUD-50058.

**Other EIV Reports [Notice PIH 2023-27]**

The PHA is required to review the Multiple Subsidy Report at least quarterly and the Failed EIV Pre-Screening and Failed Verification (Failed SSA Identity Test) reports at least monthly.

**Upfront Income Verification Using Non-HUD Systems (Optional)**

HUD encourages PHAs to utilize other upfront verification sources such as the Work Number and web-based state benefits systems. ~~In addition to mandatory use of the EIV system, HUD encourages PHAs to utilize other upfront verification sources.~~

PHA Policy

The PHA will inform all applicants and participants of its use of the following UIV resources ~~during the admission and reexamination process:~~

HUD's EIV system

**[Insert any additional UIV sources used by the PHA]**

**7-I.F. LEVEL 4 VERIFICATION [Notice PIH 2023-27]**

HUD identifies two types of Level 4 verification: written-third party verification from the source and EIV + self-certification.

**EIV + Self-Certification**

EIV may be used as written third-party verification and may be used to calculate income if the family agrees with the information in EIV and self-certifies that the amount is accurate and representative of current income. This practice is known as *EIV + self-certification*. When calculating income using this method, the PHA may use its discretion to determine which method of calculation is reasonable: the last four quarters combined or an average of any number of quarters. The family must be provided with the information from EIV.

PHA Policy

At annual reexamination, if the PHA is unable to use a determination of income from a

means-tested federal assistance program and if there are no reported changes to an income source, the PHA will use EIV + self-certification as verification of employment income, provided the family agrees with the amounts listed in EIV.

The PHA will use an average of the last two quarters of income listed in EIV to determine income from employment. The PHA will provide the family with the information in EIV. The family will be required to sign a self-certification stating that the amount listed in EIV is accurate and representative of current income. If the family disagrees with the amount in EIV, the amount is not reflective of current income, or if less than two quarters are available in EIV, the PHA will use written third-party verification from the source as outlined below.

The PHA will not use this method of verification at new admission since EIV is not available for applicant families or at interim reexamination since the income information in EIV is not current.

### **Written Third-Party Verification from the Source**

Written, third-party verification from the source is also known as “tenant-provided verification.” In order to qualify as written-third party verification from the source, the documents must be original or authentic and (generally) dated within 120 days of the date received by the PHA. For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation. Documents may be supplied by the family or received from a third-party source.

Examples of acceptable tenant-provided documents include, but are not limited to pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices. Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer’s transmittal receipt, summary of transmittal from online source, etc.) are an acceptable form of written, third-party verification.

The PHA is required to obtain, at minimum, two current and consecutive pay stubs when calculating income using third-party verification from the source. For new income sources or when two pay stubs are not available, the PHA should determine income based on the information from a traditional written, third-party verification form or the best available information.

When the family disputes EIV-reported employment income, the PHA uses written third-party verification.

When verification of assets is required, PHAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

#### **PHA Policy**

In general, the PHA will use third-party verification from the source in the following circumstances:

- At annual reexamination when EIV + self-certification is not used;
- For all new admissions; and
- For all interim reexaminations.

The PHA will not use this method if the PHA is able to use an income determination from a means-tested federal assistance program or if the PHA uses EIV + self-certification as outlined above.

In general, third-party documents provided by the family or the source must be dated within 120 days of the date received by the PHA. However, for fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation.

The PHA may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible. If the PHA determines that third-party documents provided by the family are not acceptable, the PHA will explain the reason to the family and request additional documentation from the family or will use a lower form of verification such as a written third-party verification form.

When verification of assets held by a banking or financial institution is required, the PHA will obtain one statement that reflects the current balance of the account.

When pay stubs are used, the PHA will require the family to provide the two most current, consecutive pay stubs. At the PHA's discretion, if additional paystubs are needed due to the family's circumstances (e.g., sporadic income, fluctuating schedule, etc.), the PHA may request additional paystubs or a payroll record.

### **7-I.G. LEVEL 3 VERIFICATION: WRITTEN, THIRD-PARTY FORM**

#### **[Notice PIH 2023 -27]**

This type of verification is a form developed by the PHA and used uniformly for all families when needed to collect information from a third-party source. This is known as "traditional third-party verification." PHAs send a PHA-developed form directly to the third-party source by mail, fax, or email and the source completes the form by hand (in writing or typeset).

The PHA may use this method when higher forms are unavailable or are rejected by the PHA or when the family is unable to provide acceptable verification. The PHA may skip this level of verification and may instead substitute oral third-party verification before moving to self-certification.

#### PHA Policy

Typically, the PHA will attempt to send written third-party verification forms to the verification source whenever higher forms of verification are unavailable.

However, on a case-by-case basis, the PHA may choose to obtain oral third-party verification without first attempting, and in lieu of, a written-third party verification form.

### **7.I.H. LEVEL 2: ORAL THIRD-PARTY VERIFICATION [Notice PIH 2023-27]**

#### **7-I.D. THIRD-PARTY WRITTEN AND ORAL VERIFICATION**

HUD's current verification hierarchy defines two types of written third party verification. The more preferable form, "written third party verification," consists of an original document generated by a third party source, which may be received directly from a third party source or provided to the PHA by the family. If written third party verification is not available, the PHA must attempt to obtain a "written third party verification form." This is a standardized form used to collect information from a third party.

#### **Written Third-Party Verification [Notice PIH 2018-18]**

Written third-party verification documents must be original and authentic and may be supplied by the family or received from a third-party source.

Examples of acceptable tenant-provided documents include, but are not limited to: pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.

The PHA is required to obtain, at minimum, two current and consecutive pay stubs for determining annual income from wages.

The PHA may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible.

#### PHA Policy

Third-party documents provided by the family must be dated within 60 days of the PHA request date.

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

As verification of earned income, the PHA will require the family to provide the two most current, consecutive pay stubs. At the PHA's discretion, if additional paystubs are needed due to the family's circumstances (e.g., sporadic income, fluctuating schedule, etc.), the PHA may request additional paystubs or a payroll record.

### **Written Third-Party Verification Form**

When upfront verification is not available and the family is unable to provide written third-party documents, the PHA must request a written third-party verification form. HUD's position is that this traditional third-party verification method presents administrative burdens and risks which may be reduced through the use of family-provided third-party documents.

PHAs may mail, fax, or email third-party written verification form requests to third-party sources.

#### PHA Policy

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

Third-party verification forms will be sent when third-party verification documents are unavailable or are rejected by the PHA.

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

For third-party oral verification, PHAs contact sources, identified by UIV techniques or by the family, by telephone or in person.

Oral third-party verification is mandatory if neither form of written third-party verification is available.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.

PHAs should must document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

The PHA may skip this level of verification if they attempted written third-party verification via a form and the source did not respond and move directly to self-certification.

### PHA Policy

In general, the PHA will attempt to obtain written third-party verification via a form from the verification source. If written third-party verification forms are not returned within 10 business days, the PHA will accept self-certification from the family without attempting to obtain oral third-party verification.

However, if the PHA chooses to obtain oral third-party verification, the PHA will document in the file the date and time of the telephone call or visit, the name of the person contacted and the telephone number, as well as the information confirmed. ~~In collecting third party oral verification, PHA staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.~~

~~When any source responds verbally to the initial written request for verification the PHA will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.~~

### **When Third-Party Verification is Not Required [Notice PIH 2023-272018-18]**

Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

### PHA Policy

If the family cannot provide original documents, the PHA will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost [VG, p. 18].

### **Primary Documents**

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

### **Imputed Assets**

HUD permits PHAs to accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28].

### PHA Policy

The PHA will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

### **Value of Assets and Asset Income [24 CFR 982.516(a)]**

For families with net assets totaling \$5,000 or less, the PHA may accept the family's declaration of asset value and anticipated asset income. However, the PHA is required to obtain third-party verification of all assets regardless of the amount during the intake process and at least every three years thereafter.

### PHA Policy

For families with net assets totaling \$5,000 or less, the PHA will accept the family's self-certification of the value of family assets and anticipated asset income when applicable. The family's declaration must show each asset and the amount of income expected from that asset. All family members 18 years of age and older must sign the family's declaration.

The PHA will use third-party documentation for assets as part of the intake process, whenever a family member is added to verify the individual's assets, and every three years thereafter.

### **7-I.I. LEVEL 1: NON-THIRD-PARTY VERIFICATION TECHNIQUE: SELF-CERTIFICATION [Notice PIH 2023-27]**~~**7-I.E. SELF-CERTIFICATION**~~

Non-third-party verification consists of a signed statement of reported income and/or expenses. This verification method should be used as a last resort when the PHA has not been successful in obtaining information via all other required verification techniques.~~When HUD requires third-party verification, self-certification or "tenant declaration," is used as a last resort when the PHA is unable to obtain third party verification.~~

Self-certification, however, is an acceptable form of verification when:

- A source of income is fully excluded
- Net family assets total \$50,000 or less and the PHA has adopted a policy to accept self certification~~at annual recertification, when applicable~~
- The family declares that they do not have any present ownership in any real property
- A family states that they have non-recurring income that will not be repeated in the coming year; and/or
- The PHA has adopted a policy to implement streamlined annual recertifications for fixed sources of income (See Chapter 11)

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

HUD does not require that a self-certification be notarized; however, HUD recommends including language on any self-certification to ensure the certifier understands the consequences of knowingly providing false information.

#### PHA Policy

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the PHA.

The PHA may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to the PHA and must be signed by the family member whose information or status is being verified.

All self-certifications will include the following language:

"I/We, the undersigned, certify under penalty of perjury that the information provided here is true and correct, to the best of my knowledge and recollection. WARNING: Anyone who knowingly submits a false claim or knowingly makes a false statement is subject to criminal and/or civil penalties, including confinement for up to five years, fines, and civil and administrative penalties (18 U.S.C. 287, 1001, 1010, 1012; 31 U.S.C. 3279, 3802)."

### **7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216, Notice PIH 2023-27]**~~**2018-24]**~~

The family must provide documentation of a valid Social Security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include existing program participants who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

Note that an individual who previously declared to have eligible immigration status may not change their declaration for the purpose of avoiding compliance with the SSN disclosure and documentation requirements or penalties associated with noncompliance with these requirements. Nor may the head of household opt to remove a household member from the family composition for this purpose.

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

- An original SSN card issued by the Social Security Administration (SSA)
- An original SSA-issued document, which contains the name and SSN of the individual
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual

While PHAs must attempt to gather third-party verification of SSNs prior to admission as listed above, PHAs also have the option of accepting a self-certification and a third-party document (such as a bank statement, utility or cell phone bill, or benefit letter) with the applicant's name printed on it to satisfy the SSN disclosure requirement if the PHA has exhausted all other attempts to obtain the required documentation. If verifying an individual's SSN using this method, the PHA must document why the other SSN documentation was not available.

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

#### PHA Policy

The PHA will verify an individual's SSN in the situations described above using the method described above as a last resort when no other forms of verification of the individual's SSN are available.

### **PART III: VERIFYING INCOME AND ASSETS**

Chapter 6, ~~Part I~~ of this plan describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any ~~assets and~~ income reported by the family must be verified. This part provides PHA policies that supplement the general verification procedures specified in Part I of this chapter.

#### PHA Policy

The following policies do not apply when the PHA uses a safe harbor income determination from a means-tested federal assistance program.

## **7-III.A. EARNED INCOME**

### **Tips**

#### PHA Policy

Unless tip income is included in a family member's W-2 by the employer or in UIV verification sources, persons who work in industries where tips are standard will be



required to sign a certified estimate of tips received for the prior year ~~and~~ or tips anticipated to be received in the coming year.

### Wages

#### PHA Policy

When the PHA requires third-party verification of wages, ~~f~~For wages other than tips, the family must provide originals of the two most current, consecutive pay stubs.

### 7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

The PHA must obtain written, third-party verification when the income type is not available in EIV. This includes income from self-employment.

#### PHA Policy

Business owners and self-employed persons will be required to provide:

Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.).

An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.

All schedules completed for filing federal and local taxes in the preceding year. If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

For self-employed individuals who claim they do not to file tax returns, The PHA 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), the PHA will provide a format for the individual to declare their income and expenses. The PHA will also review the printed statement of monthly income from the applicable app for all hours worked and pay received as well as the Schedule C of the individual's tax return and the corresponding IRS Form 1099 or 1099k.

The PHA will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

At any reexamination the PHA may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements. If a family member has been self-employed less than three (3) months, the PHA will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months the PHA will require the family to provide documentation of income and expenses for this period and use that information to project income.

### 7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

For policies governing streamlined income determinations for fixed sources of income, please see Chapter 11.

### Social Security/SSI Benefits [Notice PIH 2023-27]

To ensure consistency in the determination of annual Social Security and SSI income, PHAs are required to use EIV-reported Social Security and SSI benefit amounts unless the tenant disputes the EIV-reported amount [Notice PIH 2018-24]. Verification requirements for Social Security (SS) and Supplemental Security Income (SSI) benefits differ for applicants and participants. For applicants, since EIV does not contain SS or SSI benefit information, the PHA must ask applicants to provide a copy of their current SS and/or SSI benefit letter (dated within the last 120 calendar days) for each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the PHA should help the applicant request a benefit verification letter from SSA's website at [www.ssa.gov](http://www.ssa.gov) or ask the family to request one by calling SSA at 1-800-772-1213. The PHA must obtain the original benefit letter from the applicant, make a photocopy of the document for the file, and return the original to the family. For participants, the PHA must obtain information through the HUD EIV system and confirm with the participants that the current listed benefit amount is correct.

If the participant agrees with the amount reported in EIV, the PHA must use the EIV-reported gross benefit amount to calculate annual income from Social Security. PHAs are required to use the EIV-reported SS and SSI benefit amounts when calculating income unless the tenant disputes the EIV-reported amount. For example, an SSA benefit letter may list the monthly benefit amount as \$450.80 and EIV displays the amount as \$450.00. The PHA must use the EIV-reported amount unless the participant disputes the amount.

If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in EIV, the PHA must request a current SSA benefit verification letter (dated within the last 120 calendar days) from each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the PHA should help the participant request a benefit verification letter from SSA's website at [www.ssa.gov](http://www.ssa.gov) or ask the family to request one by calling SSA at 1-800-772-1213. The PHA must obtain the original benefit letter from the participant, make a photocopy of the document for the file, and return the original to the family.

Photocopies of social security checks or bank statements are not acceptable forms of verification for SS/SSI benefits.

Example: Kai Lee receives SSI. The EIV report indicates that Kai receives SSI of \$501 monthly. Kai's SSI benefit letter indicates they receive \$501.20 monthly. The PHA must use the EIV-reported amount of \$501 monthly, unless Kai disputes the EIV-reported amount.

To verify the SS/SSI benefits of applicants, the PHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s), the PHA will help the applicant request a benefit verification letter from SSA's website at [www.ssa.gov](http://www.ssa.gov) or ask the family to request one by calling SSA at 1-800-772-1213. Once the applicant has received the benefit verification letter they will be required to provide it to the PHA. To verify the SS/SSI benefits of participants, the PHA will obtain information about social security/SSI benefits through the HUD EIV System, and confirm with the participant(s) that the current listed benefit amount is correct. If the participant disputes the EIV-reported benefit amount, or if benefit

information is not available in HUD systems, the PHA will request a current SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s) the PHA will help the participant request a benefit verification letter from SSA's website at www.ssa.gov or ask the family to request one by calling SSA at 1-800-772-1213. Once the participant has received the benefit verification letter they will be required to provide it to the PHA.

#### **7-III.D. ALIMONY OR CHILD SUPPORT [Notice PIH 2023-27]**

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. For example, a family's child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders. A copy of a court order or other written payment agreement alone may not be sufficient verification of amounts received by a family.

##### PHA Policy

The methods the PHA will use to verify alimony and child support payments differ depending on whether the family declares that it receives regular payments.

If the family declares that it *receives regular payments*, verification will be obtained in the following order of priority:

Copies of the receipts and/or payment stubs for the ~~60 days~~ 12 months prior to PHA request

Third-party verification form from the state or local child support enforcement agency

Third-party verification form from the person paying the support

Family's self-certification of amount received

If the family declares that it *receives irregular or no payments*, in addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due. This may include:

A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts

If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts

*Note:* Families are not required to undertake independent enforcement action.

#### **7-III.E. NONRECURRING INCOME [Notice PIH 2023-27]**

Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. PHAs may accept a self-certification from the family stating that the income will not be repeated in the coming year.

##### PHA Policy

The PHA will accept self-certification from the family stating that income will not be repeated in the coming year. However, the PHA may choose, on a case-by-case basis, to require third-party verification that income sources will not be repeated in the coming year.

#### **7-III.F. ASSETS AND INCOME FROM ASSETS**

### **Net Family Assets [24 CFR 5.603]**

At admission and reexam, for families with net assets totaling \$50,000 or less (adjusted annually), the PHA may, but is not required to, accept the family's self-certification that the family's assets do not exceed \$50,000 without taking any additional steps to verify the accuracy of the declaration. The declaration must include the amount of income the family expects to receive from assets which must be included in the family's income. This includes declaring income from checking and savings accounts which, although excluded from the calculation of net family assets (because the combined value of non-necessary personal property does not exceed \$50,000), may generate asset income. PHAs must clarify during the self-certification process which assets are included/excluded from net family assets.

For PHAs that choose to accept self-certification, the PHA is required to obtain third-party verification of all assets, regardless of the amount, at least once every three years.

PHAs who choose not to accept self-certifications of assets must verify all families' assets on an annual basis.

When net family assets have a total value over \$50,000, the PHA may not rely on the family's self-certification. Third-party verification of assets is required when net family assets exceed \$50,000, adjusted annually by HUD.

When verification of assets is required, PHAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

#### PHA Policy

For families with net assets totaling \$50,000 or less, the PHA will accept the family's self-certification of the value of family assets and anticipated asset income. The family's declaration must show each asset and the amount of income expected from that asset. All family members 18 years of age and older must sign the family's declaration. The PHA reserves the right to require additional verification in situations where the accuracy of the declaration is in question. Any income the family expects to receive from assets will be included in the family's annual income. The family will be required to provide third-party verification of net family assets every three years.

When verification is required, in determining the value of checking or savings accounts, the PHA will use the current balance.

In determining the anticipated income from an interest-bearing checking or savings account when verification is required and the rate of return is known, the PHA will multiply the current balance of the account by the current rate of interest paid on the account. If a checking account does not bear interest, the anticipated income from the account is zero.

### **Self-Certification of Real Property Ownership [24 CFR 5.618(b)(2)]**

The PHA must determine whether a family has present ownership in real property that is suitable for occupancy for purposes of determining whether the family is compliant with the asset limitation described in Chapters 3 and 12. At admission and reexam, the PHA may accept a self-certification from the family that the family does not have any present ownership in any real property that is suitable for occupancy. If the family declares they have present ownership in real property, the PHA must obtain third-party verification.

#### PHA Policy

Both at admission and reexam, the PHA will accept self-certification from the family that the family does not have any present ownership in any real property. The certification

will state that the family does not have any present ownership interest in any real property and must be signed by all family members 18 years of age and older. The PHA reserves the right to require additional verification in situations where the accuracy of the declaration is in question.

If the family declares they have a present ownership in real property, the PHA will obtain third-party verification of the following factors: whether the family has the legal right to reside in the property; whether the family has effective legal authority to sell the property; and whether the property is suitable for occupancy by the family as a residence. However, in cases where a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, the PHA will comply with confidentiality requirements under 24 CFR 5.2007 and will accept a self-certification.

### **7-III.G. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE**

#### **Assets Disposed of for Less than Fair Market Value**

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. HUD permits PHAs to accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28]. The PHA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

#### PHA Policy

The PHA will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

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

The PHA does not already have a reasonable estimation of its value from previously collected information, or

The amount reported by the family in the certification appears obviously in error.

Example 1: An elderly participant reported a \$10,000 certificate of deposit at the last annual reexamination and the PHA verified this amount. Now the person reports that she has given this \$10,000 to her son. The PHA has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately \$5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the PHA will verify the value of this asset.

### **7-III.I. FEDERAL TAX REFUNDS OR REFUNDABLE TAX CREDITS**

#### **[Notice PIH 2023-27]**

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

### **7-III.GJ. RETIREMENT ACCOUNTS**

#### PHA Policy

The PHA will accept written third-party documents supplied by the family as evidence of the status of retirement accounts.

The type of original document that will be accepted depends upon the family member's retirement status.

Before retirement, the PHA will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.

Upon retirement, the PHA will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.

After retirement, the PHA will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken, and any regular payments.

### **7-III.HK. INCOME FROM EXCLUDED SOURCES [Notice PIH 2023-27]**

A detailed discussion of excluded income is provided in Chapter 6, Part I.

HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

For fully excluded income, the PHA is **not** required to document why third-party verification is not available, or report the income on the 50058. Fully excluded income is defined as income where the entire amount qualifies to be excluded from the annual income determination in accordance with 24 CFR 5.609(b) and any Federal Register notice on mandatory exclusions issued by HUD (for example, food stamps, earned income of a minor, or foster care funds).

For partially excluded income, the PHA is **not** required to follow the verification hierarchy, document why third-party verification is not available, or report the income on the 50058. Fully excluded income is defined as income that is entirely excluded from the annual income determination (for example, food stamps, earned income of a minor, or foster care funds) [Notice PIH 2013-04].

PHAs may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional documentation. However, if there is any doubt that a source of income qualifies for full exclusion, PHAs have the option of requiring additional verification.

For partially excluded income, the PHA is required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full-time student, ~~or income excluded under the earned income disallowance~~).

#### PHA Policy

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

The PHA will verify the source and amount of partially excluded income as described in Part 1 of this chapter.

### **7-III.HL. ZERO ANNUAL INCOME STATUS REVIEWS [Notice PIH 2023-27]**

A zero income review is an assessment, sometimes periodic, performed by the PHA of the income of a family who claims that they do not receive income from any source, including from assets. During such reviews, it is common for PHAs to request that families complete and sign a worksheet explaining how they pay for the household's expenses. HUD does not require PHAs to conduct periodic zero income reviews. In calculating annual income, PHAs must not assign monetary value to nonmonetary in-kind donations from a food bank or similar organization received by the family [24 CFR § 5.609(b)(24)(vi)]. PHAs that perform zero income reviews must update local discretionary policies, procedures, and forms. Families who begin receiving income which does not trigger an interim reexamination should no longer be considered zero income even though the family's income is not reflected on the Form HUD-50058.

PHA Policy

The PHA will check UIV sources and/or may request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SS, SSI, and earned income, child support, etc., are not being received by families claiming to have zero annual income.

The PHA will also require that each family member who claims zero income status complete a zero-income form. If any sources of income are identified on the form, the PHA will verify the income in accordance with the policies in this chapter prior to including the income in the family's annual income.

The PHA will only conduct interims in accordance with PHA policy in Chapter 11.

**7-III.J.M. STUDENT FINANCIAL ASSISTANCE [Notice PHH 2015-24] [24 CFR 5.609(b)(9)]**

The regulations under HOTMA distinguish between two categories of student financial assistance paid to both full-time and part-time students. Any assistance to students under section 479B of the Higher Education Act of 1965 (Title IV of the HEA) must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i)]. Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education not otherwise excluded by the federally mandated income exclusions are excluded [24 CFR 5.609(b)(9)(ii)].

Any financial assistance, in excess of amounts received for tuition, fees, and other required charges that a person attending an institution of higher education receives under the Higher Education Act of 1965, from private sources, or from an institution of higher education must be considered income unless the student is over the age of 23 with dependent children or is residing with parents who are seeking or receiving HCV assistance [24 CFR 5.609(b)(9) and FR 4/10/06]. For students over the age of 23 with dependent children or students residing with parents who are seeking or receiving HCV assistance, the full amount of student financial assistance is excluded from annual income [24 CFR 5.609(c)(6)]. The full amount of student financial assistance is also excluded for students attending schools that do not qualify as institutions of higher education (as defined in Exhibit 3-2). Excluded amounts are verified only if, without verification, the PHA would not be able to determine whether or to what extent the income is to be excluded (see section 7-III.H).

PHA Policy

For a student subject to having a portion of their student financial assistance included in annual income in accordance with 24 CFR 5.609(b)(9), †The PHA will request written third-party verification of both the source and the amount of student financial assistance. Family-provided documents from the educational institution attended by the student will

be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.

In addition, unless the student's only source of assistance is assistance under Title IV of the HEA, the PHA will request written verification of the cost of the student's tuition, books, supplies, room and board, and other required fees and charges to the student from the educational institution.~~written verification of the student's tuition, fees, and other required charges~~

If the PHA is unable to obtain third-party written verification of the requested information, the PHA will pursue other forms of verification following the verification hierarchy in section 7-I.B.

#### **7-IV.B. HEALTH AND MEDICAL CARE EXPENSE DEDUCTION**

Policies related to medical expenses are found in ~~6-H.D~~ Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I.

The PHA must comply with the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191, 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed health and medical care expenses. The PHA may not request documentation beyond what is sufficient to determine anticipated health and medical care costs. Before placing bills and documentation in the tenant file, the PHA must redact all personally identifiable information [FR Notice 2/14/23].

##### **Amount of Expense**

###### PHA Policy

Medical expenses will be verified through:

Written third-party documents provided by the family, such as pharmacy printouts or receipts.

When income is projected at new admission or interim, ~~t~~The PHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The PHA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

Written third-party verification forms; if the family is unable to provide acceptable documentation.

When income is projected at new admission or interim, ~~i~~f third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months.

Before placing bills and documentation in the tenant file, the PHA will redact all personally identifiable information.

If the PHA receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the person's disability, the PHA will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to be disposed of, the PHA will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will PHA include an applicant's or resident's medical records in the file [Notice PIH 2010-26].



In addition, the PHA must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified health and medical care expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

#### **Eligible Household**

The health and medical care expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62, or a person with disabilities. The PHA must verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter and as described in Chapter 7 (7-IV.A.) of this plan.

#### **Qualified Expenses**

To be eligible for the health and medical care expenses deduction, the costs must qualify as medical expenses. See Chapter 6 (~~6-II.D.~~) for the PHA's policy on what counts as a medical expense.

#### **Unreimbursed Expenses**

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

##### PHA Policy

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source. If expenses are verified through a third party, the third party must certify that the expenses are not paid or reimbursed from any other source.

#### **Expenses Incurred in Past Years**

##### PHA Policy

At new admission and interim reexam, when anticipated costs are related to on-going payment of medical bills incurred in past years, the PHA will verify:

The anticipated repayment schedule

The amounts paid in the past, and

Whether the amounts to be repaid have been deducted from the family's annual income in past years

#### **7-IV.C. DISABILITY ASSISTANCE EXPENSES**

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

The PHA must comply with the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191, 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed auxiliary apparatus or attendance care costs. The PHA may not request documentation beyond what is sufficient to determine anticipated reasonable attendant care and auxiliary apparatus costs. Before placing bills and documentation in the tenant file, the PHA must redact all personally identifiable information [FR Notice 2/14/23].

#### **Amount of Expense**

##### **Attendant Care**

## PHA Policy

The PHA will accept written third-party documents provided by the family. If family-provided documents are not available, the PHA will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

Written third-party documents provided by the family, such as receipts or cancelled checks.

Third-party verification form signed by the provider, if family-provided documents are not available.

When income is projected at new admission or interim, if third-party verification is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months.

Before placing bills and documentation in the tenant file, the PHA will redact all personally identifiable information.

If the PHA receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the person's disability, the PHA will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to be disposed of, the PHA will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will PHA include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

## Chapter 11

### REEXAMINATIONS

#### INTRODUCTION

The PHA is required to reexamine each family's income and composition at least annually, and to adjust the family's level of assistance accordingly. Interim reexaminations are also needed in certain situations. This chapter discusses both annual and interim reexaminations, and the recalculation of family share and subsidy that occurs as a result. HUD regulations and PHA policies concerning reexaminations are presented in three parts:

Part I: Annual Reexaminations. This part discusses the process for conducting annual reexaminations.

Part II: Interim Reexaminations. This part details the requirements for families to report changes in family income and composition between annual reexaminations.

Part III: Recalculating Family Share and Subsidy Amount. This part discusses the recalculation of family share and subsidy amounts based on the results of annual and interim reexaminations.

Part IV: Non-Interim Reexamination Transaction. This part describes transactions that do not entail changes to the family's adjusted income.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this plan, apply to both annual and interim reexaminations.

## PART I: ANNUAL REEXAMINATIONS [24 CFR 982.516]

### 11-I.A. OVERVIEW

The PHA must conduct a reexamination of family income and composition at least annually. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family's income and rent must be recalculated. This part discusses the schedule for annual reexaminations, the information to be collected and verified, and annual reexamination effective dates.

Unlike when performing an interim reexamination or at intake, at annual reexamination, the PHA must determine the income of the family for the previous 12-month period, except where the PHA uses a streamlined income determination. Income from assets, however, is always anticipated, irrespective of the income examination type [Notice PIH 2023-27]. PHAs also have the option of using a "safe harbor" income verification from another federal means-tested program to verify gross annual income. Chapter 7 contains the PHA's policies related to streamlined income determinations and the use of safe harbor income verifications.

### 11-I.B. STREAMLINED ANNUAL REEXAMINATIONS [24 CFR 982.516(b);

#### New HCV GB, Reexaminations]

HUD permits PHAs to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained during the intake process and every three years thereafter, in the intervening years the PHA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or rate of interest. The PHA may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the PHA must perform third-party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

Two streamlining options are available, depending upon the percentage of the family's income that is received from fixed sources. If at least 90 percent of the family's income is from fixed sources, the PHA may streamline the verification of fixed income but is not required to verify non-fixed income amounts. If the family receives less than 90 percent of its income from fixed sources, the PHA may streamline the verification of fixed income and must verify non-fixed income annually.

#### PHA Policy

The PHA will streamline the annual reexamination process by applying the verified COLA or interest rate to fixed income sources. The PHA will document in the file how the determination that a source of income was fixed was made.

If a family member with a fixed source of income is added, the PHA will use third-party verification of all income amounts for that family member.

If verification of the COLA or rate of interest is not available, the PHA will obtain third-party verification of income amounts.

Third-party verification of fixed sources of income will be obtained during the intake process and at least once every three years thereafter.

Third-party verification of non-fixed income will be obtained annually regardless of the percentage of family income received from fixed sources.

### **11-I.E. CALCULATING ANNUAL INCOME AT ANNUAL REEXAMINATION [24 CFR 5.609(c)(2) and Notice PIH 2023-27]**

The PHA must determine the income of the family for the previous 12-month period and use this amount as the family income for annual reexaminations, except where the PHA uses a streamlined income determination as indicated in Chapter 7 of this policy. The PHA may also use Safe harbor income determinations dated within the last 12 months from a means-tested federal public assistance program at annual reexamination as outlined in Chapter 7 of this policy. Except when using streamlined or Safe Harbor income determinations, in determining the income of the family for the previous 12-month period, any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination in accordance with PHA policies and 24 CFR 5.657(c) or 960.257(b) must be considered.

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

A change in income may be a loss of income or the addition of a new source of income.

Changing to a different employer in the prior year does not necessarily constitute a change if the income earned from either employer is substantially the same. The PHA should look at the entirety of the family's unearned income and earned income from the prior year in which earned income may have been one constant job or many different jobs that start and stop.

Cost of Living Adjustments (COLA) to Social Security income and Social Security disability income are always considered changes to income because the COLA is an adjustment that automatically occurs annually by law. See Chapter 6 for PHA policies on when the COLA is applied and Chapter 7 on streamlined determination of income for inflationary adjustments.

Notice PIH 2023-27 lists the following steps to calculate both earned and unearned income at annual reexamination.

- **Step 1:** The PHA determines annual income for the previous 12-month period by reviewing the following information:
- The EIV Income Report pulled within 120 days of the effective date of the annual reexamination;
- The income reported on the most recent HUD-50058; and
- The amount of prior-year income reported by the family on the PHA's annual reexamination paperwork.
- **Step 2:** The PHA takes into consideration any interim reexamination of family income completed since the last annual reexamination.
- If there was an interim reexamination performed, the PHA must use the annual income from the interim to determine the family's total annual income, provided there are no additional changes.
- If the PHA did not perform an interim or there have been changes since the last reexamination, the PHA moves to Step 3.
- **Step 3:** If there were changes in annual income not processed by the PHA since the last reexamination, the PHA must use current income. The family will be required to report their income for the prior year and whether there have been permanent changes.

- If there are no reported changes to an income source, the PHA may use documentation of prior-year income to calculate the annual income. For example, the PHA may use the following documentation:
- EIV + self-certification (wages, Supplemental Security Income (SSI), Social Security, and unemployment)
- Current written third-party verification from the source verifying prior-year income that is dated within 120 days of receipt by the PHA, for example:
  - Year-end statements
  - Paycheck with year-to-date amounts
  - Tax forms (Form 1040, W2, 1099, etc.)
- If there are reported changes by the family or the PHA notes discrepancies between EIV and what the family reports, the PHA must follow the verification hierarchy (described in Chapter 7) to document and verify income. Exhibit 11-1 provides detailed examples of how the PHA calculates income from different sources at annual reexamination using the above method.
  - PHA Policy
  - When income is calculated using a streamlined income determination or Safe Harbor determination from a means-tested federal public assistance program in accordance with PHA policies in Chapter 7, the above is not applicable. However, where the family disagrees with the PHA or other agency’s determination of income or the PHA has other reason to use third-party verification in these circumstances, then the above will apply.
- PART II: INTERIM REEXAMINATIONS [24 CFR 982.516; Notice PIH 2023-27]
- 11-II.A. OVERVIEW
- Family circumstances may change between annual reexaminations. HUD and PHA policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances the PHA must process interim reexaminations to reflect those changes. HUD regulations also permit the PHA to conduct interim reexaminations of income or family composition at any time. When an interim reexamination is conducted, only those factors that have changed are verified and adjusted [HCV GB, p. 12-10].
- A family may request an interim determination of family income or composition because of any changes since the last determination. The PHA must conduct any interim reexamination within a reasonable period of time after the family request or when the PHA becomes aware of a change in the family’s adjusted income that must be processed in accordance with HUD regulations. What qualifies as a “reasonable time” may vary based on the amount of time it takes to verify information, but the PHA generally should conduct the interim reexamination not longer than 30 days after the PHA becomes aware of changes in income.
- Notice PIH 2023-27 changes the conditions under which interim reexaminations must be conducted, codifies when interim reexaminations should be processed and made effective, and requires related changes for annual reexaminations and streamlined income

determinations. When the PHA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income.

~~— In addition to specifying what information the family must report, HUD regulations permit the family to request an interim determination if other aspects of the family’s income or composition changes. The PHA must complete the interim reexamination within a reasonable time after the family’s request.~~

~~— This part includes HUD and PHA policies describing what changes families are required to report, what changes families may choose to report, and how the PHA will process both PHA and family initiated interim reexaminations.~~

## • 11-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

### • Reporting

• PHAs must require families to report household composition changes; however, PHAs determine the timeframe in which reporting happens [Notice PIH 2023-27]. The family is required to report all changes in family composition. The PHA must adopt policies prescribing when and under what conditions the family must report changes in income and family composition [24 CFR 960.257(b)(5)]. However, due to family obligations under the program, the PHA has limited discretion in this area.

### • PHA Policy

• All families must report all changes in family and household composition that occur between annual reexaminations within 10 business days of the change.

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

### • New Family Members Not Requiring PHA Approval

• The addition of a family member as a result of birth, adoption, or court-awarded custody does not require PHA approval. However, the family is required to promptly notify the PHA of the addition [24 CFR 982.551(h)(2)].

### ~~— PHA Policy~~

• The family must inform the PHA of the birth, adoption, or court-awarded custody of a child within 10 business days.

## **11-II.C. CHANGES AFFECTING INCOME OR EXPENSES**

### **Overview**

Interim reexaminations for changes in income or expenses may be scheduled either because the PHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change.

The PHA must estimate the income of the family for the upcoming 12-month period to determine family income for an interim reexamination [24 CFR 5.609(c)(1)]. Policies for projecting income are found in Chapter 6.

### **Interim Decreases [24 CFR 982.516(c)(2) and Notice PIH 2023-27]**

A family may request an interim determination of family income for any change since the last determination. However, the PHA may decline to conduct an interim reexamination if the PHA

estimates the family's adjusted income will decrease by an amount that is less than 10 percent of the family's adjusted income. The PHA may set a lower threshold in PHA policy such as performing an interim for any decreases in adjusted income, although HUD prohibits the PHA from setting a dollar-figure threshold.

However, while the PHA has some discretion, HUD requires that the PHA perform an interim reexamination for a decrease in adjusted income of any amount in two circumstances:

- When there is a decrease in family size attributed to the death of a family member; or
- When a family member permanently moves out of the assisted unit during the period since the family's last reexamination.

In the above circumstances, the PHA must perform an interim reexamination for any decrease in adjusted income.

If the net effect of the changes in adjusted income due to a decrease in family size results in no change or an increase in annual adjusted income, then PHA must process the removal of the household member(s) as a non-interim reexamination transaction without making changes to the family's annual adjusted income.

PHA Policy

The PHA will conduct an interim reexamination any time the family's adjusted income has decreased by any amount.

**Interim Increases [24 CFR 982.516(c)(3) and Notice PIH 2023-27]**

**Increases Less than 10 Percent**

PHAs must not process interim reexaminations for income increases that result in less than a 10 percent increase in annual adjusted income.

**Increases 10 Percent or Greater**

PHAs must conduct an interim reexamination of family income when the PHA becomes aware that the family's adjusted income has changed by an amount that the PHA estimates will result in an increase of 10 percent or more in adjusted income, with the following exceptions:

- PHAs may not consider any increases in earned income when estimating or calculating whether the family's adjusted income has increased, unless the family has previously received an interim reduction during the same reexamination cycle; and
- PHAs may choose not to conduct an interim reexamination during the last three months of a certification period if a family reports an increase in income within three months of the next annual reexamination effective date.

When the family previously received an interim reexamination for a decrease to adjusted income during the same annual reexamination cycle, a PHA has the discretion whether to consider a subsequent increase in earned income.

PHA Policy

When a family reports an increase in their earned income between annual reexaminations, the PHA will not conduct an interim reexamination, regardless of the amount of the increase, and regardless of whether there was a previous decrease since the family's last annual reexamination.

The PHA will process an interim reexamination for any increases in unearned income of 10 percent or more in adjusted income.

The PHA will not perform an interim reexamination when a family reports an increase in income (whether earned or unearned income) within three months of their annual reexamination effective date. However, families who delay reporting income increases until the last three months of their certification period may be subject to retroactive rent increases in accordance with the PHA policies in Chapter 14.

### **Concurrent Increases in Earned and Unearned Income [Notice PIH 2023-27]**

When the family reports an increase in both earned and unearned income at the same time, the PHA must look at the earned and unearned income changes independently of each other to determine if an interim reexamination is performed. The PHA will only conduct an interim reexamination when the increase independently meets the 10 percent threshold and all other requirements for performing interim reexaminations. For example, if a family reported increases in both earned and unearned income that overall resulted in a 12 percent increase in their adjusted income, but the change in earned income represented a 7 percent increase and the change in unearned income represented a 5 percent increase, the PHA may not perform an interim for either change since neither change meets the 10 percent threshold amount independently. If the change in unearned income met the 10 percent threshold in this case, the PHA would be required to perform an interim. If the change in earned income met the 10 percent threshold in this case, the PHA would refer to PHA policy to determine whether an interim was required.

### **Cumulative Increases [Notice PIH 2023-27]**

A series of smaller reported increases in adjusted income may cumulatively meet or exceed the 10-percent increase threshold, at which point the PHA must conduct an interim reexamination in accordance with PHA policy.

### **Family Reporting**

The PHA must adopt policies consistent with HUD regulations prescribing when and under what conditions the family must report a change in family income or composition [24 CFR 982.516(d)].

PHA policy may require families to report only changes that the family estimates meet the threshold for an interim reexamination or the PHA may establish policies requiring that families report all changes in income and household composition, and the PHA will subsequently determine if the change requires an interim reexamination [Notice PIH 2023-27].

When the PHA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income. For example, if the family is reporting a decrease in adjusted income that is more than 10 percent, but the family also had a change in assets that would result in a change in income, the change in assets must also be reviewed [Notice PIH 2023-27].

#### **PHA Policy**

The family will be required to report all changes in income regardless of the amount of the change, whether the change is to earned or unearned income, or if the change occurred during the last three months of the certification period. Families must report changes in income within 10 business days of the date the change takes effect. The family may notify the PHA of changes either orally or in writing. If the family provides oral notice, the PHA may also require the family to submit the changes in writing.



Within 10 business days of the family reporting the change, the PHA will determine whether the change will require an interim reexamination.

If the change will not result in an interim reexamination, the PHA will note the information in the tenant file but will not conduct an interim reexamination. The PHA will send the family written notification within 10 business days of making this determination informing the family that the PHA will not conduct an interim reexamination.

If the change will result in an interim reexamination, the PHA will determine the documentation the family will be required to submit based on the type of change reported and PHA policies in Chapter 7. The PHA will ask the family to report changes in all aspects of adjusted income at this time. The family must submit any required information or documents within 10 business days of receiving a request from the PHA. This time frame may be extended for good cause with PHA approval. The PHA will accept required documentation by mail, email, fax, or in person. The PHA will conduct the interim within a reasonable time period based on the amount of time it takes to verify the information.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if the PHA determines that an interview is warranted, the family may be required to attend.

~~When a family reports a change, the PHA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.~~

#### ~~**PHA-Initiated Interim Reexamination**~~

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

#### ~~**PHA Policy**~~

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

- ~~• For families receiving the Earned Income Disallowance (EID), the PHA will conduct an interim reexamination at the start and conclusion of the 24-month eligibility period.~~
- ~~• If the family has reported zero income, the PHA will conduct an interim reexamination every 3 months as long as the family continues to report that they have no income.  
If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income), the PHA will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.  
If at the time of the annual reexamination, tenant declarations were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, the PHA will conduct an interim reexamination. The PHA may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.~~

#### ~~**Family-Initiated Interim Reexaminations**~~

~~The PHA must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 982.516(e)]. In addition, HUD regulations~~

require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)].

### **Required Reporting**

HUD regulations give the PHA the freedom to determine the circumstances under which families will be required to report changes affecting income.

#### PHA Policy

Families are required to report all increases in earned income, including new employment, within 10 business days of the date the change takes effect.

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

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

### **Optional Reporting**

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)]. The PHA must process the request if the family reports a change that will result in a reduced family income [HCV GB, p. 12-9].

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced [24 CFR 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.

#### PHA Policy

If a family reports a change that it was not required to report and that would result in an increase in the family share of the rent, the PHA will note the information in the tenant file, but will not conduct an interim reexamination.

If a family reports a change that it was not required to report and that would result in a decrease in the family share of rent, the PHA will conduct an interim reexamination. See Section 11-II.D. for effective dates.

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

## **11-II.D. PROCESSING THE INTERIM REEXAMINATION**

### **Method of Reporting**

#### PHA Policy

The family may notify the PHA of changes either orally or in writing. If the family provides oral notice, the PHA may also require the family to submit the changes in writing.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if the PHA determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, the PHA will determine the documentation the family will be required to submit. The family must submit any required information or documents within 10 business days of receiving a request from the PHA. This time frame may be extended for good cause with PHA approval. The PHA will accept required documentation by mail, by email, by fax, or in person.

### **Effective Dates**

~~The PHA must establish the time frames in which any changes that result from an interim reexamination will take effect [24 CFR 982.516(d)]. The changes may be applied either retroactively or prospectively, depending on whether there is to be an increase or a decrease in the family share of the rent, and whether the family reported any required information within the required time frames [HCV GB, p. 12-10].~~

#### PHA Policy

- ~~• If the family share of the rent is to *increase*:~~

~~The increase generally will be effective on the first of the month following 30 days' notice to the family.~~

~~If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.~~

- ~~• If the family share of the rent is to *decrease*:~~

~~The decrease will be effective on the first day of the month following the month in which the change was reported and all required documentation was submitted. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.~~

#### 11-II.D. EFFECTIVE DATES [24 CFR 982.516(e) and Notice 2023-27]

##### Changes Reported Timely [Notice PIH 2023-27]

If the family reports a change in family income or composition timely in accordance with PHA policies:

- For rent increases, the PHA must provide the family with 30 days advance written notice. The rent increase is effective the first of the month after the end of that 30-day notice period.
- Rent decreases are effective on the first of the month after the date of the actual change leading to the interim reexamination of family income. This means the decrease will be applied retroactively.

##### Changes Not Reported Timely [Notice PIH 2023-27]

If the family failed to report a change in family income or composition timely in accordance with PHA policies:

- For rent increases, the PHA must implement any resulting rent increases retroactively to the first of the month following the date of the change leading to the interim reexamination of family income.
- For rent decreases, the PHA must implement the change no later than the first rent period following completion of the interim reexamination.

However, the PHA may choose to adopt a policy that would make the effective date of the rent decrease retroactive to the first of the month following completion of the reexamination. PHAs may choose to establish conditions or requirements for when such a retroactive application

would apply. PHAs that choose to adopt such policies must ensure the earliest date that the retroactive decrease is applied is the later of:

- The first of the month following the date of the change that led to the interim reexamination;  
or
- The first of the month following the most recent previous income examination.

In applying a retroactive change in rent as the result of an interim reexamination, the PHA must clearly communicate the effect of the retroactive adjustment to the family so that there is no confusion over the amount of the rent that is the family's responsibility.

#### PHA Policy

In general, when the family fails to report a change in income or family composition timely, and the change would lead to a rent decrease, the PHA will apply the decrease the first of the month following completion of the interim reexamination.

However, the PHA will apply the results of the interim reexamination retroactively where a family's ability to report a change in income promptly may have been hampered due to extenuating circumstances such as a natural disaster or disruptions to PHA management operations. The PHA will **decide** to apply decreases retroactively on a case-by-case basis. When the PHA applies the results of interim decreases retroactively, the PHA will clearly communicate the effect of the retroactive adjustment to the family and may enter into a repayment agreement in accordance with PHA policies.

The PHA will also clearly communicate the effect of the retroactive adjustment to the owner.

#### **PART IV: NON-INTERIM REEXAMINATION TRANSACTIONS [Notice PIH 2023-27]**

Families may experience changes within the household that do not trigger an interim reexamination under PHA policy and HUD regulations but which HUD still requires the PHA to report to HUD via Form HUD-50058. These are known as *non-interim reexamination transactions*. In these cases, PHAs will submit a separate, new action code on Form HUD-50058. The following is a list of non-interim reexamination transactions:

- Adding or removing a hardship exemption for the child care expense deduction;
- Updating or removing the phased-in hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction (the phased-in relief will begin at an eligible family's first annual or interim reexamination, whichever is sooner, after January 1, 2024);
- Adding or removing general hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction;
- Adding or removing a minimum rent hardship;
- Adding or removing a non-family member (i.e., live-in aide, foster child, foster adult);
- Ending a family's EID or excluding 50 percent (decreased from 100 **percent**) of a family member's increase in employment income at the start of the second 12- month EID period.
- Adding a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;

- Removing a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
  - Adding/Updating a family or household member's Social Security number; and
  - Updating a family member's citizenship status from eligible to ineligible or vice versa, resulting in a change to the family's rent and/or utility reimbursement, if applicable (i.e., family begins receiving prorated assistance or previously prorated assistance becomes full assistance), or updating the prorated rent calculation due to the addition or removal of family members in household with an ineligible noncitizen(s).
- PHAs must make all other changes to assets, income, and deductions at the next annual or interim reexamination of income, whichever is sooner.

**EXHIBIT 11-1: CALCULATING Income AT ANNUAL REEXAMINATION**

**Example 1: Calculating Annual Income at Annual Reexamination Using EIV**

Staff are processing the 3/1/2024 annual reexamination for Ruby Myers and her minor daughter, Georgia. No interim reexaminations have been processed, and Ruby has not reported any changes to annual income to the PHA since the 3/1/2023 annual reexamination. The SSA published 2024 COLA is 7 percent.

Last reexamination – 3/1/2023 Annual Reexamination

<u>Ruby:</u>	<u>Georgia:</u>
<u>Wages: \$30,000</u>	<u>SSI: \$10,980 (\$915 monthly)s</u>

The EIV report pulled on 12/15/2023

Ruby:  
Wages Total: \$33,651  
Quarter 3 of 2023: \$8,859 (City Public School)  
Quarter 2 of 2023: \$8,616 (City Public School)  
Quarter 1 of 2023: \$8,823 (City Public School)  
Quarter 4 of 2022: \$7,353 (City Public School)

Georgia:  
SSI Total: \$10,980  
2023 benefit \$915 monthly

<u>Income Reported on Reexamination Application</u>	
<u>Ruby:</u> <u>Wages at City Public School: \$32,000</u> <u>(switched jobs but no permanent change to amount)</u>	<u>Georgia:</u> <u>SSI benefits: \$10,980 (no changes)</u>
<u>Calculating Ruby’s wages:</u> <u>Step 1: Determine prior annual income from EIV (i.e., Q4 2022 through Q3 of 2023: \$33,651).</u> <u>Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination).</u> <u>Step 3: Ruby certifies that the \$33,651 of wages in EIV is accurate and reflects her current annual income, so the PHA will use \$33,651 for annual wages for the 3/1/2024 annual reexamination given there have been no additional changes to annual income.</u>	<u>Calculating Georgia’s SSI benefit:</u> <u>Step 1: Determine the prior annual income from EIV (i.e., \$915 x 12 months: \$10,980).</u> <u>Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination).</u> <u>Step 3: Ruby certifies the SSI income in EIV is accurate and reflects Georgia’s current annual income. The PHA must adjust the prior-year income (2023 SSI benefit) by the 7- percent COLA and will use this amount to calculate annual SSI income for the 3/1/2024 annual reexamination:</u> <u>COLA: \$64.05 (\$915 x 0.07)</u> <u>New gross SSI benefit: \$11,748.60 (\$979.05 x 12 months)</u>
<u>If Ruby did not agree with the annual wages reported in EIV, the PHA/MFH Owner would be required to verify her current income in accordance with HUD’s verification hierarchy.</u>	
<u>Summary of Annual Income (as reported on the HUD-50058)</u>	
<u>Ruby (Head of Household):</u> <u>Other Wage: \$33,651</u> <u>Myers Family Total Annual Income: \$45,399</u>	<u>Georgia (Other Youth Under 18):</u> <u>SSI: \$11,748</u>

**Example 2: Calculating Annual Income at Annual Reexamination Using EIV: Family Disagrees with EIV**

<u>Staff are processing Paul Hewson’s 5/1/2024 annual reexamination. Since the last annual reexamination, Paul reported a decrease in annual income that exceeded 10 percent. Last year, Paul reported a decrease in earned income because he transferred from a full-time job at Sasha’s Sweets to a part-time job at Viking Bakery. Following HUD’s EIV verification hierarchy, staff confirmed Paul was no longer employed at Sasha’s Sweets and decreased his anticipated annual income from \$28,000 to \$7,500 resulting from his new part-time employment at Viking Bakery; an interim reexamination was processed effective 7/1/2023. After the 7/1/2023 interim, Paul worked briefly at two different jobs, but he says he is no longer working and is not planning to work.</u>
<u>5/1/2023 Annual Reexamination</u>

Wages: \$28,000

The EIV report pulled on 1/15/2024

Wages Total: \$18,271

Quarter 3 of 2023: \$2,500 (Viking Bakery)

Quarter 3 of 2023: \$796 (Sweet Tooth Candy Bar)

Quarter 2 of 2023: \$1,300 (Sasha's Sweets)

Quarter 2 of 2023: \$584 (Larry's Concessions)

Quarter 2 of 2023: \$2,401 (Viking Bakery)

Quarter 1 of 2023: \$6,500 (Sasha's Sweets)

Quarter 4 of 2022: \$600 (Sasha's Sweets)

SS/SSI: No history of benefits

Income Reported on Reexamination Application

Wages: \$0 (permanent change; no longer receiving)

Social Security: \$14,400 (\$1,200 monthly)

Paul certified on the PHA's annual reexamination paperwork that he does not agree with the annual wages of \$18,271 reported in EIV and it is not reflective of his current anticipated annual income. He reported he is currently unemployed, and provided a copy of an award letter from the Social Security Administration to document that he will begin receiving a monthly disability benefit of \$1,200 effective 3/1/2024.

Calculating Wages and SS Benefit

Step 1: Determine prior annual income taking into consideration the 8/1/2023 interim reexamination (i.e., EIV wages reflected Q4 2022 through Q3 2023: \$18,271)

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there was a 7/1/2023 interim that reduced wages to \$7,500.

Step 3: Obtain documentation to verify current income and confirm Paul is no longer employed at Viking Bakery or The Sweet Tooth Candy Bar (the employers reported in the most recent quarter of EIV). This step is necessary, because Paul did not agree with the EIV income report or income reported on the last interim reexamination. Paul reported that he is no longer working at all.

Process the annual reexamination effective 5/1/2024 using annual SS income of \$14,400 and \$0 wages.

Summary of Annual Income (as reported on the HUD-50058)

Paul (Head of Household): \$14,400 (SS)

Hewson Family Total Annual Income: \$14,400

**Example 3: Calculating Annual Income at Annual Reexamination**

Staff are processing the 11/1/2024 annual reexamination for Samantha and Fergus Pool, head of household and spouse. On 2/14/2024 Samantha reported her monthly child support payment was reduced from \$200 to \$100 per month, but an interim reexamination was not processed because the reduction in child support income for Samantha's daughter, Hailey, did not result in a decrease of 10 percent or more in annual adjusted income, and the PHA did not establish a lower threshold. Samantha did not report any additional changes to the PHA.

Last reexamination – 11/1/2023 Annual Reexamination

<u>Samantha:</u> <u>Business income: \$28,000</u> <u>VA disability pension: \$12,000</u> <u>Child support: \$2,400</u>	<u>Fergus:</u> <u>Wages: \$8,250</u> <u>Other non-wage income: \$3,000 (Go Fund Me online fundraiser)</u>
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The EIV report pulled on 9/16/2024

<u>Samantha:</u> <u>Wages Total: \$0 (no wage data reported since Q1 2023)</u>	<u>Fergus:</u> <u>Wages Total: \$8,600</u> <u>Quarter 1 of 2024: \$2,100 (Ian’s Fish ‘n’ Chips)</u> <u>Quarter 1 of 2024: \$500 (Claire’s Healthcare Supplies)</u> <u>Quarter 4 of 2023: \$1,000 (Claire’s Healthcare Supplies)</u> <u>Quarter 3 of 2023: \$1,800 (The Onion Garden Shop)</u> <u>Quarter 2 of 2023: \$3,200 (Ivar’s Fish Haus)</u>
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Current Family Circumstances: Income Reported on Reexamination Application  
Samantha and Fergus reported how much income was earned/received in the previous 12-month period and noted permanent changes, where applicable, for each source of their income on PHA’s annual reexamination form. However, no information was reported by the family concerning other non-wage income. Fergus reported only wages and his current employment at Ian’s Fish ‘n’ Chips for the annual reexamination. The family supplied the supporting documentation noted below to the PHA for the 11/1/2024 annual reexamination.

<u>Samantha:</u> <u>Business income: \$28,750 (last year); has decreased to \$18,000 (permanent change)</u> <u>VA disability benefit: \$12,000 (last year); has increased to \$12,300 (permanent change)</u> <u>Child support: \$2,400 (last year); has decreased to \$1,200 (permanent change)</u>	<u>Fergus:</u> <u>Wages: \$6,000</u>
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Calculating Samantha’s Net Business Income

Step 1: Determine prior annual net business income (i.e., \$28,000 on last HUD–50058.  
Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.  
Step 3: Adjust to reflect current net business income. Samantha reported on the annual reexamination application that business income permanently decreased to \$18,000. The PHA must obtain supporting documentation from Samantha that demonstrates current net business income. Samantha provided documentation that supported the current annual net business income is \$18,000. Process the annual reexamination effective 11/1/2024 using annual net business income determined in Step 3.

Calculating Samantha’s VA Pension Income



Step 1: Determine prior annual VA pension income (i.e., \$12,000 supported by a VA award letter Samantha supplied that documents the prior year monthly VA pension was \$1,000).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: The PHA needs to adjust to reflect current VA pension income. Samantha supplies a VA award letter showing a monthly pension of \$1,025, or \$12,300 annually. Process the annual reexamination effective 11/1/2024 using annual VA pension income determined in Step 3 (\$12,300 in this example).

#### Calculating Samantha's Child Support Income

Step 1: Determine prior annual child support income (i.e., \$2,400 on the last HUD-50058).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination. The family reported a decrease from \$200 to \$100 monthly, but the change was not processed because it did not meet the threshold.

Step 3: The family reported changes, so the PHA must adjust to reflect current child support income. In this example, the family submitted a child support history report from the local child support office that documents regular \$100 monthly child supports payments beginning 3/1/2024 through the current month. Process the annual reexamination effective 11/1/2024 using current annual child support income determined in Step 3 (\$1,200 in this example).

#### Calculating Fergus' Wages

Step 1: Determine prior annual income from wages in EIV (i.e., Q2 2023 through Q1 of 2024: \$8,600).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: There is a discrepancy between what the family reported and EIV, so the PHA must verify and adjust to reflect current annual income from wages. Fergus reported \$6,000 in annual income from wages on the annual reexamination from a single employer, Ian's Fish 'n' Chips. The PHA projected annual income of \$7,800 based on the two paystubs for this employer, and EIV shows \$8,600 earned in the most recent four quarters in EIV. To complete Step 3, the PHA must do the following:

- Resolve the discrepancy between EIV wages, the \$6,000 annual income Fergus reported, and the \$7,800 projected based on the paystubs he provided, and
- Verify he is no longer employed at Claire's Healthcare Supplies in accordance with HUD's verification hierarchy and local policies.

The PHA determined that Fergus reported his net vs. gross annual income from wages, which he corrected on the annual reexamination form to reflect his current gross annual income of \$9,000. The PHA verified Fergus was no longer employed at Claire's Healthcare Supplies and obtained two additional paystubs. Based on four current and consecutive paystubs, Fergus is now projected to earn \$9,360 annually. Process the annual reexamination effective 11/1/2024 using income from wages determined in Step 3 (\$9,360 in this example).

<u>Calculating Fergus' Other Non-Wage Income</u>	
<u>Step 1: Determine prior annual income from other non-wage income (i.e., \$3,000 on the last HUD- 50058).</u>	
<u>Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.</u>	
<u>Step 3: The family did not report any non-wage income on the annual reexamination form, but it was included on the last HUD-50058. The PHA must verify and adjust to reflect current non-wage income. The PHA must verify no income was received through a "Go Fund Me" online fundraiser so that it may be excluded. Fergus provided a self-certification that he hasn't solicited funds online and doesn't plan to in the following year; he also provided records from the account that documented no fundraising activity in the prior 12-month period. Process the annual reexamination effective 11/1/2024 using annual non-wage income of \$0 determined in Step 3.</u>	
<u>Summary of Annual Income (as reported on the HUD-50058)</u>	
<u>Samantha (Head of Household):</u>	<u>Fergus (Co-head):</u>
<u>Own business: \$18,000</u>	<u>Wages: \$9,360</u>
<u>Pension: \$12,300</u>	
<u>Child support: \$1,200</u>	
<u>Poole Family Total Annual Income: \$40,860</u>	

#### **14-II.D. PHA-CAUSED ERRORS OR PROGRAM ABUSE**

The responsibilities and expectations of PHA staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of a PHA staff member that are considered errors or program abuse related to the HCV program. Additional standards of conduct may be provided in the PHA personnel policy.

PHA-caused incorrect subsidy determinations include (1) failing to correctly apply HCV rules regarding family composition, income, assets, and expenses, (2) assigning the incorrect voucher size to a family, and (3) errors in calculation.

##### **De Minimis Errors [24 CFR 5.609(c)(4)]**

The PHA will not be considered out of compliance when making annual income determinations solely due to de minimis errors in calculating family income. A de minimis error is an error where the PHA determination of family income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (\$360 in annual adjusted income) per family.

PHAs must take corrective action to credit or repay a family if the family was overcharged rent, including when PHAs make de minimis errors in the income determination. Families will not be required to repay the PHA in instances where the PHA miscalculated income resulting in a family being undercharged for rent. PHAs state in their policies how they will repay or credit a family the amount they were overcharged as a result of the PHA's de minimis error in income determination.

PHA Policy

The PHA will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff-caused error, staff program abuse, or a de minimis error.

**Repayment to the PHA**

~~Neither a family nor an owner is required to repay an overpayment of subsidy if the error or program abuse is caused by PHA staff [HCV GB. 22-12].~~

**PHA Reimbursement to Family or Owner**

~~The PHA must reimburse a family for any underpayment of subsidy, regardless of whether the underpayment was the result of staff caused error or staff or owner program abuse. Funds for this reimbursement must come from the PHA's administrative fee reserves [HCV GB p. 22-12].~~



# Board of Commissioners

## Request for Board Action

Meeting Date: March 27, 2024

Agenda #: 4D

**DEPARTMENT:** Housing Assistance

**FILE TYPE:** Federal - Action

### TITLE

**Conduct And Close Public Hearing To Receive Comments And Adoption Of The 2024 Public Housing Agency Plan**

### PURPOSE/ACTION REQUESTED

- Conduct and close a public hearing.
- Adopt 2024 Annual PHA Plan.

### SUMMARY

As an administrator of the Housing Choice Voucher and Public Housing programs, the Dakota County Community Development Agency (CDA) is required to prepare an Annual Update to its Public Housing Agency Plan (PHA Plan) and additionally, once every five years, a Public Housing Agency Five Year Plan using the Department of Housing and Urban Development (HUD) prescribed template. This year, the CDA is only required to submit an Annual Plan Update.

The drafted 2024 Annual Plan Update (Attachment A) outlines goals and objectives for the Housing Choice Voucher and Public Housing programs for the upcoming year.

HUD requires a 45-day public comment period and a public hearing for the drafted PHA Plan. The public comment period was published in the Dakota County Tribune on January 12, 2024 (Attachment B) and was posted to the CDA's website. The drafted PHA Plan was available to review on the CDA's website and at the CDA office. Letters were sent to city officials where public housing units are located to review the plan and provide comment. Public Housing and Housing Choice Voucher households were mailed a postcard with information on where to view the PHA Plan and could provide comment by email, phone, or mail.

There were no comments from the cities, two from Housing Choice Voucher recipients and several from Public Housing residents residing at Colleen Loney Manor. The comments that were received are in Attachment C.

### RECOMMENDATION

HUD requires Public Housing agencies to submit the PHA Plan 75 days prior to the fiscal year end. Staff recommends approval of the PHA Plan for submission to HUD.

### EXPLANATION OF FISCAL/FTE IMPACTS

Programs described in the PHA Plan are funded through HUD federal allocations.

None     Current budget     Other     Amendment Requested     New FTE(s) requested

**RESOLUTION**

WHEREAS, the U.S. Department of Housing and Urban Development requires that public housing agencies with Housing Choice Voucher and/or Public Housing programs submit a Five Year and Annual Update to its Public Housing Agency Plan (PHA Plan) in accordance with the prescribed HUD templates; and

WHEREAS, CDA Board Resolution #24-6788 scheduled a public hearing for the purpose of receiving comments from citizen and residents for the Annual Plan; and

WHEREAS, a public notice was published in the Dakota County Tribune and posted on the CDA’s website; and

WHEREAS, CDA staff solicited feedback from program participants and community stakeholders; and

WHEREAS, comments that were received during the 45-day comment period have been considered in the Annual Update to the PHA Plan; and

WHEREAS, a public hearing for the purpose of receiving additional comments from citizens and residents was conducted at the CDA Board meeting on March 27, 2024; and

WHEREAS, the 2024 Annual PHA Plan was reviewed and discussed with the CDA Board of Commissioners.

NOW, THEREFORE BE IT RESOLVED by the Dakota County Community Development Agency Board of Commissioners, That the 2024 Annual Plan is adopted for submission to the U.S. Department of Housing and Urban Development.

**PREVIOUS BOARD ACTION**

24-6788; 1/24/2024

**ATTACHMENTS**

Attachment A: Revised Annual PHA Plan

Attachment B: Affidavit of publication for public comment and public hearing

Attachment C: Public comment received during comment period

**BOARD GOALS**

- Focused Housing Programs
- Collaboration
- Development/Redevelopment
- Financial Sustainability
- Operational Effectiveness

**CONTACT**

Department Head: Lisa Hohenstein, Director of Housing Assistance

Author: Lisa Hohenstein

<b>Annual PHA Plan</b> <i>(Standard PHAs and Troubled PHAs)</i>	U.S. Department of Housing and Urban Development Office of Public and Indian Housing	OMB No. 2577-0226 Expires: 03/31/2024
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**Purpose.** The 5-Year and Annual PHA Plans provide a ready source for interested parties to locate basic PHA policies, rules, and requirements concerning the PHAs operations, programs, and services, including changes to these policies, and informs HUD, families served by the PHA, and members of the public of the PHA's mission, goals and objectives for serving the needs of low- income, very low- income, and extremely low- income families.

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

**Definitions.**

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

A. PHA Information.							
46	PHA Name: <u>Dakota County Community Development Agency</u> PHA Code: <u>MN46P147</u> PHA Type: <input checked="" type="checkbox"/> Standard PHA <input type="checkbox"/> Troubled PHA PHA Plan for Fiscal Year Beginning: (MM/YYYY): <u>07/2024</u> PHA Inventory (Based on Annual Contributions Contract (ACC) units at time of FY beginning, above) Number of Public Housing (PH) Units <u>203</u> Number of Housing Choice Vouchers (HCVs) <u>2,892</u> Total Combined Units/Vouchers <u>3,095</u> PHA Plan Submission Type: <input checked="" type="checkbox"/> Annual Submission <input type="checkbox"/> Revised Annual Submission						
<p><b>Availability of Information.</b> PHAs must have the elements listed below readily available to the public. A PHA must identify the specific location(s) where the proposed PHA Plan, PHA Plan Elements, and all information relevant to the public hearing and proposed PHA Plan are available for inspection by the public. At a minimum, PHAs must post PHA Plans, including updates, at each Asset Management Project (AMP) and main office or central office of the PHA. PHAs are strongly encouraged to post complete PHA Plans on their official website. PHAs are also encouraged to provide each resident council a copy of their PHA Plans.</p>							
<input type="checkbox"/> <b>PHA Consortia:</b> (Check box if submitting a Joint PHA Plan and complete table below)							
	Participating PHAs	PHA Code	Program(s) in the Consortia	Program(s) not in the Consortia		No. of Units in Each Program	
				PH	HCV	PH	HCV
	Lead PHA:						

B.	Plan Elements
B.1	<p><b>Revision of Existing PHA Plan Elements.</b></p> <p>(a) Have the following PHA Plan elements been revised by the PHA?</p> <p>Y N</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Statement of Housing Needs and Strategy for Addressing Housing Needs</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Deconcentration and Other Policies that Govern Eligibility, Selection, and Admissions.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Financial Resources.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Rent Determination.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Operation and Management.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Grievance Procedures.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Homeownership Programs.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Community Service and Self-Sufficiency Programs.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Safety and Crime Prevention.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Pet Policy.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Asset Management.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Substantial Deviation.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Significant Amendment/Modification</p> <p>(b) If the PHA answered yes for any element, describe the revisions for each revised element(s):</p> <p>(c) The PHA must submit its Deconcentration Policy for Field Office review.</p>
B.2	<p><b>New Activities.</b></p> <p>(a) Does the PHA intend to undertake any new activities related to the following in the PHA's current Fiscal Year?</p> <p>Y N</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Hope VI or Choice Neighborhoods.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Mixed Finance Modernization or Development.</p> <p><input checked="" type="checkbox"/> <input type="checkbox"/> Demolition and/or Disposition.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Designated Housing for Elderly and/or Disabled Families.</p> <p><input checked="" type="checkbox"/> <input type="checkbox"/> Conversion of Public Housing to Tenant-Based Assistance.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Conversion of Public Housing to Project-Based Rental Assistance or Project-Based Vouchers under RAD.</p> <p><input checked="" type="checkbox"/> <input type="checkbox"/> Occupancy by Over-Income Families.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Occupancy by Police Officers.</p> <p><input checked="" type="checkbox"/> <input type="checkbox"/> Non-Smoking Policies.</p> <p><input checked="" type="checkbox"/> <input type="checkbox"/> Project-Based Vouchers.</p> <p><input checked="" type="checkbox"/> <input type="checkbox"/> Units with Approved Vacancies for Modernization.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Other Capital Grant Programs (i.e., Capital Fund Community Facilities Grants or Emergency Safety and Security Grants).</p> <p>(b) If any of these activities are planned for the current Fiscal Year, describe the activities. For new demolition activities, describe any public housing development or portion thereof, owned by the PHA for which the PHA has applied or will apply for demolition and/or disposition approval under section 18 of the 1937 Act under the separate demolition/disposition approval process. If using Project-Based Vouchers (PBVs), provide the projected number of project-based units and general locations, and describe how project basing would be consistent with the PHA Plan.</p> <p>Utilizing federal programs, such as RAD, or Section 18 programs, the CDA may convert the remaining 203 units of Public Housing if it is advantageous to the agency and program residents. The CDA may consider awarding additional vouchers for project-based rent assistance to secure units within Dakota County.</p>
B.3	<p><b>Progress Report.</b></p> <p>Provide a description of the PHA's progress in meeting its Mission and Goals described in the PHA 5-Year and Annual Plan.</p>

B.4	<p><b>Capital Improvements.</b> Include a reference here to the most recent HUD-approved 5-Year Action Plan in EPIC and the date that it was approved.</p> <p>The CDA's most recent 5-year Action Plan was approved by Lucia Clausen on January 29, 2021.</p>
B.5	<p><b>Most Recent Fiscal Year Audit.</b></p> <p>(a) Were there any findings in the most recent FY Audit?</p> <p>Y N  <input type="checkbox"/> <input checked="" type="checkbox"/></p> <p>(b) If yes, please describe:</p>
<p><b>C. Other Document and/or Certification Requirements.</b></p>	
C.1	<p><b>Resident Advisory Board (RAB) Comments.</b></p> <p>(a) Did the RAB(s) have comments to the PHA Plan?</p> <p>Y N  <input type="checkbox"/> <input checked="" type="checkbox"/></p> <p>(b) If yes, comments must be submitted by the PHA as an attachment to the PHA Plan. PHAs must also include a narrative describing their analysis of the RAB recommendations and the decisions made on these recommendations.</p> <p>Due to lack of interest from our residents in forming a RAB, all Public Housing residents were sent a postcard making them aware of the Public Comment period and where they can access the "proposed revised Annual Plan". Residents were informed via the above-mentioned postcard how they can provide comments to the CDA that will be shared with the Revised Annual Plan submission. With the lack of interest, the CDA views all residents as our RAB. Annually, the CDA solicits its Public Housing residents to form a RAB Board and to date we have not received interest from residents wanting to participate.</p> <p>See "Public Comments" document in submission file. (Available after 45-day comment period)</p>
C.2	<p><b>Certification by State or Local Officials.</b></p> <p><a href="#">Form HUD 50077-SL</a>, <i>Certification by State or Local Officials of PHA Plans Consistency with the Consolidated Plan</i>, must be submitted by the PHA as an electronic attachment to the PHA Plan.</p>
C.3	<p><b>Civil Rights Certification/ Certification Listing Policies and Programs that the PHA has Revised since Submission of its Last Annual Plan.</b></p> <p>Form HUD-50077-ST-HCV-HP, <i>PHA Certifications of Compliance with PHA Plan, Civil Rights, and Related Laws and Regulations Including PHA Plan Elements that Have Changed</i>, must be submitted by the PHA as an electronic attachment to the PHA Plan.</p>
C.4	<p><b>Challenged Elements.</b> If any element of the PHA Plan is challenged, a PHA must include such information as an attachment with a description of any challenges to Plan elements, the source of the challenge, and the PHA's response to the public.</p> <p>(a) Did the public challenge any elements of the Plan?</p> <p>Y N  <input type="checkbox"/> <input checked="" type="checkbox"/></p> <p>If yes, include Challenged Elements.</p>
C.5	<p><b>Troubled PHA.</b></p> <p>(a) Does the PHA have any current Memorandum of Agreement, Performance Improvement Plan, or Recovery Plan in place?</p> <p>Y N N/A  <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/></p> <p>(b) If yes, please describe:</p>



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

**D.1 Affirmatively Furthering Fair Housing (AFFH).**

Provide a statement of the PHA's strategies and actions to achieve fair housing goals outlined in an accepted Assessment of Fair Housing (AFH) consistent with 24 CFR § 5.154(d)(5). Use the chart provided below. (PHAs should add as many goals as necessary to overcome fair housing issues and contributing factors.) Until such time as the PHA is required to submit an AFH, the PHA is not obligated to complete this chart. The PHA will fulfill, nevertheless, the requirements at 24 CFR § 903.7(o) enacted prior to August 17, 2015. See Instructions for further detail on completing this item.

<b>Fair Housing Goal:</b> <i>Describe fair housing strategies and actions to achieve the goal</i>
N/A, the CDA has not been required to submit an AFH. However, the CDA does participate in the Fair Housing Implementation Council. Information can be found at the following link:  <a href="https://www.dakotacda.org/fair-housing/fair-housing-implementation-council/">https://www.dakotacda.org/fair-housing/fair-housing-implementation-council/</a>
<b>Fair Housing Goal:</b> <i>Describe fair housing strategies and actions to achieve the goal</i>
<b>Fair Housing Goal:</b> <i>Describe fair housing strategies and actions to achieve the goal</i>

# Instructions for Preparation of Form HUD-50075-ST Annual PHA Plan for Standard and Troubled PHAs

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Safety and Crime Prevention (VAWA).** Describe the PHA’s plan for safety and crime prevention to ensure the safety of the public housing residents. The statement must provide development-by-development or jurisdiction wide-basis: (i) A description of the need for measures to ensure the safety of public housing residents; (ii) A description of any crime prevention activities conducted or to be conducted by the PHA; and (iii) A description of the

coordination between the PHA and the appropriate police precincts for carrying out crime prevention measures and activities. (24 CFR §903.7(m)) A description of: **1)** Any activities, services, or programs provided or offered by an agency, either directly or in partnership with other service providers, to child or adult victims of domestic violence, dating violence, sexual assault, or stalking; **2)** Any activities, services, or programs provided or offered by a PHA that helps child and adult victims of domestic violence, dating violence, sexual assault, or stalking, to obtain or maintain housing; and **3)** Any activities, services, or programs provided or offered by a public housing agency to prevent domestic violence, dating violence, sexual assault, and stalking, or to enhance victim safety in assisted families. (24 CFR §903.7(m)(5))

**Pet Policy.** Describe the PHA’s policies and requirements pertaining to the ownership of pets in public housing. (24 CFR §903.7(n))

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

**Substantial Deviation.** PHA must provide its criteria for determining a “substantial deviation” to its 5-Year Plan. (24 CFR §903.7(r)(2)(i))

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Occupancy by Police Officers.** The PHA may allow police officers who would not otherwise be eligible for occupancy in public housing, to reside in a public housing dwelling unit. The PHA must include the number and location of the units to be occupied by police officers, and the terms and conditions of their tenancies; and a statement that such occupancy is needed to increase security for public housing residents. A “police officer” means a person determined by the PHA to be, during the period of residence of that person in public housing, employed on a full-time basis as a duly licensed professional police officer by a Federal, State or local government or by any agency of these governments. An officer of an accredited police force of a housing agency may qualify. The PHA may incorporate information on occupancy by police officers into its PHA Plan statement of deconcentration and other policies that govern eligibility, selection, and admissions. See additional guidance on HUD’s website at: [Notice PIH 2011-7. \(24 CFR 960.505\)](#) (24 CFR 903.7(b))

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

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

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

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

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

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

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

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

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

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

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

**C.3 Civil Rights Certification/ Certification Listing Policies and Programs that the PHA has Revised since Submission of its Last Annual Plan.** Provide a certification that the following plan elements have been revised, provided to the RAB for comment before implementation, approved by the PHA board, and made available for review and inspection by the public. This requirement is satisfied by completing and submitting form HUD-50077 ST-HCV-HP, *PHA Certifications of Compliance with PHA Plan, Civil Rights, and Related Laws and Regulations Including PHA Plan Elements that Have Changed*. Form HUD-50077-ST-HCV-HP, *PHA Certifications of Compliance with PHA Plan, Civil Rights, and Related Laws and Regulations Including PHA Plan Elements that Have Changed* must be submitted by the PHA as an electronic attachment to the PHA Plan. This includes all certifications relating to Civil Rights and related regulations. A PHA will be considered in compliance with the certification requirement to affirmatively further fair housing if the PHA fulfills the requirements of §§ 903.7(o)(1) and 903.15(d) and: (i) examines its programs or proposed programs; (ii) identifies any fair housing issues and contributing factors within those programs, in accordance with 24 CFR 5.154 or 24 CFR 5.160(a)(3) as applicable; (iii) specifies actions and strategies designed to address contributing factors, related fair housing issues, and goals in the applicable Assessment of Fair Housing consistent with 24 CFR 5.154 in a reasonable manner in view of the resources available; (iv) works with jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require the PHA's involvement; (v) operates programs in a manner consistent with any applicable consolidated plan under 24 CFR part 91, and with any order or agreement, to comply with the authorities specified in paragraph (o)(1) of this section; (vi) complies with any contribution or consultation requirement with respect to any applicable AFH, in accordance with 24 CFR 5.150 through 5.180; (vii) maintains records reflecting these analyses, actions, and the results of these actions; and (viii) takes steps acceptable to HUD to remedy known fair housing or civil rights violations. impediments to fair housing choice within those programs; addresses those impediments in a reasonable fashion in view of the resources available; works with the local jurisdiction to implement any of the jurisdiction’s initiatives to affirmatively further fair housing; and assures that the annual plan is consistent with any applicable Consolidated Plan for its jurisdiction. ([24 CFR §903.7\(o\)](#)).

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

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

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

**D.1 Affirmatively Furthering Fair Housing.** The PHA will use the answer blocks in item D.1 to provide a statement of its strategies and actions to implement each fair housing goal outlined in its accepted Assessment of Fair Housing (AFH) consistent with 24 CFR § 5.154(d)(5) that states, in relevant part: “To implement goals and priorities in an AFH, strategies and actions shall be included in program participants’ ... PHA Plans (including any plans incorporated therein) .... Strategies and actions must affirmatively further fair housing ....” Use the chart provided to specify each fair housing goal from the PHA’s AFH for which the PHA is the responsible program participant – whether the AFH was prepared solely by the PHA, jointly with one or more other PHAs, or in collaboration with a state or local jurisdiction – and specify the fair housing strategies and actions to be implemented by the PHA during the period covered by this PHA Plan. If there are more than three fair housing goals, add answer blocks as necessary.

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

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

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

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

## **EXHIBIT 1A**

**Goals and Objectives.** Identify the PHA's quantifiable goals and objectives that will enable the PHA to serve the needs of low-income and very low-income, and extremely low-income families for the next five years. Include a report on the progress the PHA has made in meeting the goals and objectives described in the previous 5-Year Plan.

Goals adopted by the Dakota County CDA include:

### **Create and Maintain Affordable Housing Opportunities**

- Apply for additional rental voucher as they are available.
- Modernize public housing units utilizing over \$800,000 for public housing units per year.
- Compliance with VAWA requirements.

#### **PROGRESS:**

- **2023 HUD allocated 8 Incremental Housing Vouchers to the CDA.**
- **2023 HUD awarded the Dakota County CDA \$1,114,266 in capital funds. These grant dollars will be obligated and expended to complete needed rehabilitation work on public housing properties.**
- **VAWA notification is posted on the CDA's website and applicant/participant documentation.**
- **Maintaining housing and/or subsidy when it has been determined protection by VAWA is warranted.**
- **Staff were trained on VAWA and its requirements in 2023.**

### **Strengthen Dakota County Communities**

- Deconcentrate poverty by promoting mixed-income private developments when possible and maintaining scattered site public housing program.
- Promote self-sufficiency and asset development by continuing a Section 8 Family Self-Sufficiency program, incorporating services in housing units as feasible.
- Promote affordable home ownership opportunities by selling former Public Housing units to current residents and/or a non-profit entity.

#### **PROGRESS:**

- **Offered a four-part Financial Literacy Series for FSS participants.**
- **Since 2021, the CDA has sold 28 single family homes and 2 duplexes to Habitat for Humanity that were disposed of from the CDA's Public Housing Program. By selling these units, the CDA promoted homeownership to income eligible households. The CDA will continue evaluating the feasibility of selling single family homes as the families vacate to continue promoting affordable homeownership, while also retaining the sale proceeds for future development of additional affordable housing in Dakota County.**

### **Excellence in the Administration of Programs**

- Maintain 95% or better occupancy/utilization rate for each CDA housing program.
- Earn a High Performer designation through the Public Housing Assessment System (PHAS) and the Section 8 Management Assessment Program (SEMAP).
- Provide quality service to customers and clients through open communication, offering extended hours once a month for working program participants, and completing no less than 99% of Housing Choice Voucher recertifications on time.

#### **PROGRESS:**

- **Maintained 99.92% voucher utilization for the HCV Program (most recent FY).**
- **Maintained High Performer designation for SEMAP.**
- **Obtain the maximum points for timely re-certifications established in SEMAP.**
- **CDA office is open to the public with staff and equipment available to assist with online application and recertification process.**
- **As permitted by HUD, the CDA has chosen to delay implementation of the policy revisions required to comply with Housing Opportunities Through Modernization Act (HOTMA) until January 1, 2025.**

### **Increase Public Awareness of Agency and Affordable Housing**

- Promote housing programs through annual landlord conference and education.
- Promote initiatives through comprehensive communications program.
- Pursue opportunities for collaboration and partnership
- Promote the CDA and housing programs on social media platforms.

#### **PROGRESS:**

- **In 2023 the CDA offered landlords an in-person training including speakers on HQS inspections and the Dakota County Drug Task Force.**
- **Built partnerships with local community services to benefit the residents of Dakota County as a whole.**
- **Promoted the Dakota County CDA housing and employment opportunities on social media.**

### **Attract, Retain and Develop Qualified Staff**

- Offer career opportunities and benefits that successfully compete with other employers.
- Foster workplace environment where employees feel supported and encouraged to pursue on-going professional development.

#### **PROGRESS:**

- **Offer compensation and a benefit package that is competitive with similar positions at housing authorities in the Twin Cities Metropolitan Area.**
- **Career laddering opportunities in both Housing Assistance and Property Management departments.**
- **Invested in professional development of all staff through local and national training opportunities.**
- **Purchased subscription to online HAI Training for staff to access on-demand.**
- **Tuition reimbursement available for continuing education.**
- **Regularly provide agency-wide training for all staff.**

# AFFIDAVIT OF PUBLICATION

STATE OF MINNESOTA ) ss  
COUNTY OF DAKOTA

Tonya Orbeck, being duly sworn on an oath, states or affirms that he/she is the Publisher's Designated Agent of the newspaper(s) known as:

Dakota County Tribune

with the known office of issue being located in the county of:

DAKOTA

with additional circulation in the counties of:


DAKOTA

and has full knowledge of the facts stated below:

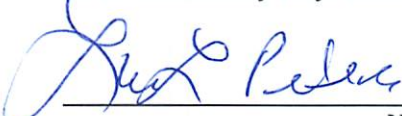
- (A) The newspaper has complied with all of the requirements constituting qualification as a qualified newspaper as provided by Minn. Stat. §331A.02.
- (B) This Public Notice was printed and published in said newspaper(s) once each week, for 1 successive week(s); the first insertion being on 01/12/2024 and the last insertion being on 01/12/2024.

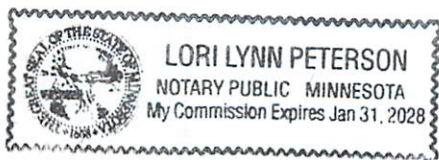
### MORTGAGE FORECLOSURE NOTICES

Pursuant to Minnesota Stat. §580.033 relating to the publication of mortgage foreclosure notices: The newspaper complies with the conditions described in §580.033, subd. 1, clause (1) or (2). If the newspaper's known office of issue is located in a county adjoining the county where the mortgaged premises or some part of the mortgaged premises described in the notice are located, a substantial portion of the newspaper's circulation is in the latter county.

By:   
Designated Agent

Subscribed and sworn to or affirmed before me on 01/12/2024 by Tonya Orbeck.

  
Notary Public



Rate Information:  
(1) Lowest classified rate paid by commercial users for comparable space:  
\$10 per column inch

Ad ID 1365623

## DAKOTA COUNTY PUBLIC NOTICE COMMENT PERIOD FOR DAKOTA COUNTY CDA AGENCY PLAN

The Dakota County CDA's Annual Agency Plan which outlines the CDA's goals, objectives, and administrative policy for the Housing Choice Voucher (Section 8) and Public Housing program is available for public review and comment through February 23, 2024. A draft is available on the Dakota County CDA's website at [www.dakotacda.org](http://www.dakotacda.org). Upon request, the Agency Plan can be made available in an alternative format.

Written and/or oral comments may be submitted to the CDA at Dakota County CDA, Attention: CDA Plan Comments, 1228 Town Centre Drive, Eagan, MN 55123. Comments sent by email may be sent to [ajudge@dakotacda.org](mailto:ajudge@dakotacda.org) with the Subject line: CDA Plan Comments. Telephone: 651-675-4400, Fax: 651-675-4444, MN Relay Service: 1-800-627-3529.

As required by the Department of Housing and Urban Development (HUD), notice is hereby given that the Dakota County Community Development Agency's Board of Commissioners will hold a Public Hearing on Wednesday, March 27, 2024, at 1:00 p.m. at the Dakota County Community Development Agency's office to receive public comment on the Dakota County CDA's Public Housing Agency updated Annual PHA Plan.

Published in the  
Dakota County Tribune  
January 12, 2024  
1365623





March 27, 2024

To: Dakota County CDA Board of Commissioners

From: Anna Judge, Director of Property Management  
Lisa Hohenstein, Director of Housing Choice Voucher Program

Re: Public Comments on CDA 2024 Annual PHA Plan

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In addition to mailing postcards to all households that participate in the Housing Choice Voucher and Public Housing programs, the CDA advertised the public comment period in the Dakota County Tribune and on its website, held meetings for public housing residents (one at Collen Loney Manor and the other at the CDA's office), and solicited feedback from cities where the CDA has public housing units. In addition to the in-person meetings, residents were given the opportunity to make any comments through emails, phone, or mail.

The following comments were received and responded to through the public comment period for the CDA's 2024 Annual Public Housing Agency Plan.

**Colleen Loney Manor resident comments received during annual meeting and CDA responses:**

<b>Comment</b>	<b>Response</b>
Outside parking lot (near front entry) – resident would like to see more lighting and crosswalk painted in the front lot.	Staff told resident we would look into the feasibility of adding more lighting and a painted crosswalk.
Resident would like to see a table for the fireplace area in the Community Room. In addition, this resident requested hangers for the Community Room and cleaning instructions printed off for the new stovetop in the Community Room.	Staff were already in the process of purchasing additional items for the newly renovated Community Room. Staff will look into if cleaning instructions is necessary or not.
Resident wants seam covers for her carpeting in her unit	Staff will look at residents concerns and see if there is any cover that can be beneficial to her situation
Resident stated that the 3 <sup>rd</sup> floor washing machine was not working correctly	Staff called a work order into BDS to make a repair. Resident was also reminded that they can call in work orders to our maintenance line for common area issues, such as this in the future.
Resident requested a memo to all residents asking everyone to double bag their waste	Staff will determine if this is necessary

Resident requested that staff provide cleaning products for the Community Room	Staff will purchase basic cleaning supplies and store them in a central location
Resident requested more landscaping on site	Staff will determine when additional landscaping is necessary as they require care
Resident requested weed control services at the garden plots and requested raised garden beds	Staff will determine if this request is warranted and if the budget can allow for the purchase of raised garden beds
Resident stated that the large elevator had a wet spot in the carpet after a recent rainfall.	Staff will have maintenance check into this to see if there is an issue that needs to be resolved or if it may not have even been rain that the resident saw on the carpet.
Resident complained of unit keys and drafts from the unit AC sleeves	Staff have budgeted for the AC and sleeves to be replaced in 2024. Staff will work with this individual resident to see what issues she is having with her keys.
Resident requested additional storage outside of unit	Staff have determined that there is no space available in the building to add 80 additional storage lockers.

**Housing Choice Voucher recipient comments were as follows:**

<b>Comment</b>	<b>Response</b>
<ul style="list-style-type: none"> <li>HCV participant living in Senior Housing asked for a top load wash machine, an updated TV in the common area, and “exercise tape not at all”.</li> </ul>	<ul style="list-style-type: none"> <li>The comments were unrelated to the HCV assistance therefore sent to Property Management for consideration.</li> </ul>
<ul style="list-style-type: none"> <li>HCV participant, based on barriers personally experienced, requested the following recommendations: <ul style="list-style-type: none"> <li>1) Additional landlord outreach strategies and/or incentives to increase the number of landlords that accept the Housing Choice Voucher.</li> <li>2) Reviewing and adding creative solutions to add affordable housing stock such as, commercial properties developed into residential, and rehabilitation of vacant housing.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>This submission was received after the public comment period, however, CDA personnel did provide a response.</li> </ul>



# Board of Commissioners

## Request for Board Action

Meeting Date: March 27, 2024

Agenda #: 5A

**DEPARTMENT:** Finance

**FILE TYPE:** Regular - Consent

### TITLE

**Approval Of Record Of Disbursements – February 2024**

### PURPOSE/ACTION REQUESTED

Approve Record of Disbursements for February 2024.

### SUMMARY

In February 2024, the Dakota County Community Development Agency (CDA) had \$6,188,133.64 in disbursements and \$520,890.41 in payroll expenses. Attachment A provides the breakdown of disbursements. Additional detail is available from the Finance Department.

### RECOMMENDATION

Staff recommends approval of the Record of Disbursements for February 2024.

### EXPLANATION OF FISCAL/FTE IMPACTS

These disbursements are included in the Fiscal Year Ending June 30, 2024 budget.

None     Current budget     Other     Amendment Requested     New FTE(s) requested

### RESOLUTION

BE IT RESOLVED by the Dakota County Community Development Agency Board of Commissioners, That the February 2024 Record of Disbursements is approved as written.

### PREVIOUS BOARD ACTION

N/A

### ATTACHMENTS

Attachment A: Record of Disbursements – February 2024

### BOARD GOALS

Focused Housing Programs     Collaboration  
 Development/Redevelopment     Financial Sustainability     Operational Effectiveness

### CONTACT

Department Head: Ken Bauer, Finance Director

Author: Chris Meyer, Assistant Director of Finance

**Dakota County CDA  
Record of Disbursements  
For the month of February 2024**

	Date	Amount	Total
<b>Common Bond Housing</b>			
	02/20/24	<u>\$ 16,246.38</u>	
			\$ 16,246.38
<b>Disbursing</b>			
	02/01/24	\$ 794,172.82	
	02/08/24	\$ 441,866.49	
	02/15/24	\$ 520,146.48	
	02/22/24	\$ 860,875.06	
	02/29/24	\$ 519,585.42	
	Addt'l Jan. 2024	<u>\$ 454,247.58</u>	
			\$ 3,590,893.85
<b>Housing Assistance</b>			
	02/01/24	\$ 2,470,364.03	
	02/15/24	<u>\$ 66,130.00</u>	
			\$ 2,536,494.03
<b>Tax Increment Financing</b>			
	02/26/24	<u>\$ 44,499.38</u>	
			\$ 44,499.38
<b>Total Disbursements</b>			<u><u>\$ 6,188,133.64</u></u>
 <b>February 2024 Payroll</b>			
	02/09/24	\$ 260,857.95	
	02/23/24	<u>\$ 260,032.46</u>	
<b>Total Payroll</b>			<u><u>\$ 520,890.41</u></u>

Disbursement detail is available in the Finance Office



# Board of Commissioners

## Request for Board Action

Meeting Date: March 27, 2024

Agenda #: 5B

**DEPARTMENT:** Finance

**FILE TYPE:** Regular - Consent

### TITLE

**Approval Of Amendments To The Fiscal Year Ended June 30, 2023 Operating Budget**

### PURPOSE/ACTION REQUESTED

Approve amendments to the Fiscal Year Ended June 30, 2023 Operating Budget.

### SUMMARY

Pursuant to CDA budget policy, the Executive Director is permitted to approve the transfer of budget authority between controlled line-item expenditures up to established limits. In addition, any increase in total spending generally requires approval of the CDA Board of Commissioners.

- Attachment A: Budgetary Transfers: As required by CDA budget policy, a listing of all budget amendments approved by the Executive Director shall be submitted to the CDA Board of Commissioners. The listing reports \$953,621 in transfers between controlled line-item expenditures that were approved by the Executive Director during the Fiscal Year Ended June 30, 2023.

### RECOMMENDATION

Staff recommends approval of these transfers of budget authority between controlled line-item expenditures. They are being done in accordance with the requirements of CDA budget policy.

### EXPLANATION OF FISCAL/FTE IMPACTS

These budget amendments do not increase total spending for the Fiscal Year Ended June 30, 2023.

None    Current budget    Other    Amendment Requested    New FTE(s) requested

### RESOLUTION

WHEREAS, the Dakota County CDA has adopted an operating budget for the Fiscal Year Ended June 30, 2023; and

WHEREAS, CDA budget policy requires that a listing of budget transfers approved by the Executive Director be presented to the Board of Commissioners; and

NOW, THEREFORE BE IT RESOLVED by the Dakota County Community Development Agency Board of Commissioners, That the budget amendments approved by the Executive Director for the Fiscal Year Ended June 30, 2023 pursuant to the requirements of CDA budget policy are affirmed by the CDA Board.

### PREVIOUS BOARD ACTION

22-6559; 6/21/2022

**ATTACHMENTS**

Attachment A: FYE 6/30/23 Budget Amendments

**BOARD GOALS**

- Focused Housing Programs
- Collaboration
- Development/Redevelopment
- Financial Sustainability
- Operational Effectiveness

**CONTACT**

Department Head: Ken Bauer, Finance Director

Author: Chris Meyer, Assistant Director of Finance

## Attachment A: FYE 6/30/23 Budget Amendments

Budget Amendments for FYE 6/30/23 – transfers between controlled line-item expenditures approved by Executive Director totaling \$953,621:

Date	Program	Budget Category	Amount	Description
03/15/23	Workforce Housing LLC	Extraordinary Maintenance	+ \$83	LV-Cedar Valley: Paint playground swings
		Extraordinary Maintenance	+ \$77	EAG-Erin Place: Mudjacking
		Extraordinary Maintenance	- \$160	IGH-Spruce Pointe: Exterior painting
03/27/23	Common Bond Housing	Extraordinary Maintenance	+ \$11,915	RSMT-Cameo Place: Replace water heater
		Extraordinary Maintenance	- \$11,915	Various buildings: Replace appliances
03/27/23	Workforce Housing LLC	Extraordinary Maintenance	+ \$330	HSTGS-Pleasant Ridge: Trim trees in back of units
		Extraordinary Maintenance	- \$330	EAG-Oak Ridge: Mudjack entry door slabs
04/06/23	Common Bond Housing	Extraordinary Maintenance	+ \$32,000	EAG-O'Leary Manor: Common area flooring
		Extraordinary Maintenance	- \$12,000	EAG-Lakeside Pointe: Replace water heater
		Extraordinary Maintenance	- \$20,000	RSMT-Cameo Place: Common area flooring
04/10/23	Office Building	Extraordinary Maintenance	+ \$814	EAG-Office Building: Lunchroom furniture
		Extraordinary Maintenance	+ \$27,750	EAG-Office Building: Replace office lighting software
		Extraordinary Maintenance	+ \$24,093	EAG-Office Building: Replace security system
		Extraordinary Maintenance	+ \$9,480	EAG-Office Building: Replace server room AC
		Extraordinary Maintenance	- \$6,405	WSP-Haskell Court: Upgrade security cameras
		Extraordinary Maintenance	- \$15,191	EAG-Oakwoods: Replace common area furnace and AC

	Cont'd	Extraordinary Maintenance	- \$1,059	SSP-River Heights Terrace: Upgrade security cameras
		Extraordinary Maintenance	- \$4,590	MH-Parkview Plaza: Common area flooring
		Extraordinary Maintenance	- \$2,350	RSMT-Cameo Place: Replace unit smoke and CO detectors
		Extraordinary Maintenance	- \$11,355	BV-Park Ridge Place: Microhood replacement
		Extraordinary Maintenance	- \$6,419	AV-Cortland Square: Install heat tape
		Extraordinary Maintenance	- \$2,336	EAG-Office Building: New flooring in the kitchen
		Extraordinary Maintenance	- \$496	WSP-Haskell Court: Replace Schlage locks with Yale
		Extraordinary Maintenance	- \$10,715	WSP-Haskell Court: Boiler replacement
		Extraordinary Maintenance	- \$1,221	EAG-O' Leary Manor: Repair/replace concrete
05/10/23	Common Bond Housing	Extraordinary Maintenance	+ \$9,250	IGH-Hillcrest Pointe: Replace water heater
		Extraordinary Maintenance	- \$9,250	Various buildings: Replace appliances
05/10/23	Common Bond Housing	Extraordinary Maintenance	+ \$30,000	MH-Parkview Plaza: Emergency elevator repair
		Extraordinary Maintenance	- \$30,000	WSP-Haskell Court: Replace Schlage locks with Yale
05/16/23	Common Bond Housing	Extraordinary Maintenance	+ \$9,280	LV-Mainstreet Manor: Replace water heater
		Extraordinary Maintenance	- \$9,280	Various buildings: Replace appliances
06/01/23	Common Bond Housing	Extraordinary Maintenance	+ \$6,310	WSP-Haskell Court: Flat roof repair, install downspout
		Extraordinary Maintenance	- \$6,310	WSP-Haskell Court: Drainage, earthwork, and landscaping
06/30/23	Common Bond Housing	Extraordinary Maintenance	+ \$6,666	IGH-Hillcrest Pointe: Emergency replacement of water tanks
		Extraordinary Maintenance	- \$6,666	Various buildings: Replace appliances



06/02/23	Common Bond Housing	Extraordinary Maintenance	+ \$10,823	AV-Cortland Square: Replace toilets
		Extraordinary Maintenance	+ \$3,495	AV-Orchard Square: Replace toilets
		Extraordinary Maintenance	+ \$1,924	FGTN-Vermillion River Crossing: Sealcoat
		Extraordinary Maintenance	- \$5,720	SSP-Thompson Heights: Overhead garage doors
		Extraordinary Maintenance	- \$5,000	MH-Village Commons: Drainage, earthwork, and landscaping
		Extraordinary Maintenance	- \$5,522	SSP-River Heights Terrace: Replace steel door and frame
06/02/23	Workforce Housing LLC	Extraordinary Maintenance	+ \$20,432	LV-Country Lane: Replace toilets
		Extraordinary Maintenance	+ \$2,228	EAG-Oak Ridge: Install new water heaters with pans
		Extraordinary Maintenance	- \$18,113	EAG-Oak Ridge: Install gutters and downspout at rear side of units
		Extraordinary Maintenance	- \$4,360	BV-Parkside: Replace through wall A/C
		Extraordinary Maintenance	- \$187	AV-Glenbrook: Re-route downspouts off of sidewalk/patio areas
06/06/23	Workforce Housing LLC	Extraordinary Maintenance	+ \$27,907	LV-Cedar Valley, AV-Chasewood, MH-Hillside Gables: Replace dishwashers
		Extraordinary Maintenance	- \$27,907	IGH-Spruce Pointe: Exterior painting
06/06/23	Common Bond Housing	Extraordinary Maintenance	+ \$238	HSTGS-Rivertown Court: Replace trash room doors
		Extraordinary Maintenance	+ \$5,559	BV-Valley Ridge: Laundry equipment
		Extraordinary Maintenance	- \$5,797	IGH-Carmen Court: Replace supply lines and shutoffs at sinks/toilets
06/06/23	Office Building	Extraordinary Maintenance	+ \$475	EAG-Office Building: Replace security system
		Extraordinary Maintenance	- \$475	EAG-Office Building: New flooring on open staircase

06/13/23	Common Bond Housing	Extraordinary Maintenance	+ \$6,236	WSP-Haskell Court: Elevator life-safety
		Extraordinary Maintenance	+ \$27,155	EAG-Oakwoods: Elevator life-safety
		Extraordinary Maintenance	+ \$21,975	WSP-The Dakotah: Drainage, earthwork, and landscaping
		Extraordinary Maintenance	- \$55,366	IGH-Carmen Court: Elevator life-safety
06/13/23	Workforce Housing LLC	Extraordinary Maintenance	+ \$43,755	HSTGS-Marketplace: Replace unit A/C
		Extraordinary Maintenance	- \$43,755	BV-Heart of the City: Replace A/C condensers
06/21/23	Workforce Housing LLC	Extraordinary Maintenance	+ \$23,100	HSTGS-Pleasant Ridge: Install gutter helmets at rear of units
		Extraordinary Maintenance	- \$23,100	LV-Cedar Valley: Landscape improvements/tree trimming
06/27/23	Common Bond Housing	Extraordinary Maintenance	+ \$5,205	HSTGS-Rivertown Court: Sealcoat
		Extraordinary Maintenance	+ \$14,000	SSP-Thompson Heights: Riser/valve replacement or repair
		Extraordinary Maintenance	+ \$6,566	WSP-Haskell Court: Fin tube and valve replacement
		Extraordinary Maintenance	+ \$5,425	WSP-Haskell Court: Flat roof repair, install downspout
		Extraordinary Maintenance	- \$19,205	BV-Park Ridge Place: Replace through wall A/C
		Extraordinary Maintenance	- \$6,566	WSP-Haskell Court: Riser/valve replacement or repair
06/27/23	Common Bond Housing	Extraordinary Maintenance	+ \$36,136	LV-Mainstreet Manor: Zone valve replacement
		Extraordinary Maintenance	+ \$11,000	EAG-Lakeside Pointe: Tuckpointing
		Extraordinary Maintenance	+ \$6,170	LV-Winsor Plaza: Repair stress fracture in brick
		Extraordinary Maintenance	- \$23,000	LV-Winsor Plaza: Fin tube and valve replacement
		Extraordinary Maintenance	- \$30,306	SSP-River Heights Terrace: Replace faucets

06/29/23	Common Bond Housing	Extraordinary Maintenance	+ \$2,419	WSP-Haskell Court: Elevator life-safety
		Extraordinary Maintenance	+ \$2,498	EAG-Oakwoods: Elevator life-safety
		Extraordinary Maintenance	- \$4,917	WSP-Haskell Court: Drainage, earthwork, and landscaping
06/29/23	Common Bond Housing	Extraordinary Maintenance	+ \$6,375	MH-Village Commons: Replace water heater
		Extraordinary Maintenance	+ \$4,000	RSMT-Cambrian Commons: Upgrade security cameras
		Extraordinary Maintenance	+ \$12,932	Various Buildings: Smoke and fire dampers
		Extraordinary Maintenance	+ \$20,918	LV-Winsor Plaza: Elevator life-safety (critical)
		Extraordinary Maintenance	+ \$350	WSP-Haskell Court: Upgrade security cameras
		Extraordinary Maintenance	+ \$5,627	BV-Park Ridge Place: Replace boiler pumps
		Extraordinary Maintenance	+ \$29,000	AV-Cortland Square: Replace windows
		Extraordinary Maintenance	+ \$7,300	HSTGS-Mississippi Terrace: Common area furnace and A/C
		Extraordinary Maintenance	+ \$10,500	SSP-River Heights Terrace: Replace entire mailbox system
		Extraordinary Maintenance	- \$12,932	Various Buildings: Replace appliances
		Extraordinary Maintenance	- \$67,200	SSP-Dakota Heights: Replace Schlage locks with Yale
06/29/23	Office Building	Extraordinary Maintenance	+ \$5,673	EAG-Office Building: Replace and add cameras
		Extraordinary Maintenance	- \$5,673	EAG-Office Building: Replace/refinish cabinets and countertops in the kitchen
06/29/23	Office Building	Extraordinary Maintenance	+ \$58,119	EAG-Office Building: Replace the flat roof at patio
		Extraordinary Maintenance	- \$58,119	SSP-River Heights Terrace: Replace Schlage locks with Yale

06/29/23	Workforce Housing LLC II	Extraordinary Maintenance	+ \$4,500	LV-Prairie Crossing: Replace power vented water heaters
		Extraordinary Maintenance	+ \$3,695	LV-Prairie Crossing: Replace bath fans
		Extraordinary Maintenance	- \$8,195	LV-Prairie Crossing: Replace A/C units
06/30/23	Common Bond Housing	Extraordinary Maintenance	+ \$5,674	BV-Park Ridge Place: Replace fire alarm panel
		Extraordinary Maintenance	- \$5,674	Various buildings: Replace appliances
06/29/23	Common Bond Housing	Extraordinary Maintenance	+ \$2,070	AV-Orchard Square: Repair/replace asphalt
		Extraordinary Maintenance	+ \$16,241	MH-Parkview Plaza: Brick/rock face repair
		Extraordinary Maintenance	+ \$67,726	WSP-The Dakotah: Replace windows
		Extraordinary Maintenance	+ \$4,220	LV-Crossroads Commons: Replace through wall A/C
		Extraordinary Maintenance	+ \$6,464	BV-Valley Ridge: Sealcoat
		Extraordinary Maintenance	+ \$107,074	LV-Crossroads Commons, SSP-Thompson Heights, EAG-O' Leary Manor, RSMT-Cambrian Commons: Replace Schlage locks with Yale
		Extraordinary Maintenance	- \$77,965	SSP-River Heights Terrace, IGH-Cahill Commons: Replace Schlage locks with Yale
		Extraordinary Maintenance	- \$30,000	SSP-River Heights Terrace: Fin tube and valve replacement
		Extraordinary Maintenance	- \$24,435	LV-Mainstreet Manor: Replace faucets
		Extraordinary Maintenance	- \$15,178	RSMT-Cameo Place, LV-Winsor Plaza, IGH-Cahill Commons: Replace supply lines and shutoffs at sinks/toilets
		Extraordinary Maintenance	- \$18,000	EAG-Lakeside Pointe: LED lighting upgrade
Extraordinary Maintenance	- \$15,000	HSTGS-Mississippi Terrace: Riser/valve replacement or repair		
Extraordinary Maintenance	- \$3,477	EAG-O' Leary Manor: Repair/replace concrete		

	Cont'd	Extraordinary Maintenance	- \$1,975	IGH-Cahill Commons: Upgrade security cameras
		Extraordinary Maintenance	- \$7,305	IGH-Cahill Commons: Replace windows
		Extraordinary Maintenance	- \$10,460	IGH-Cahill Commons: Repair/replace water softener
06/29/23	Common Bond Housing	Extraordinary Maintenance	+ \$45	Various buildings: Unit minicap at turnover
		Extraordinary Maintenance	- \$45	Various buildings: Replace appliances
06/29/23	Workforce Housing LLC II	Extraordinary Maintenance	+ \$106,469	Various buildings (WH II): Unit minicap at turnover
		Extraordinary Maintenance	- \$106,469	Various buildings (WH I): Unit minicap at turnover
06/30/23	Common Bond Housing	Extraordinary Maintenance	+ \$11,220	EAG-O' Leary Manor: Replace valve and hydraulic fluid
		Extraordinary Maintenance	- \$11,220	Various buildings: Replace appliances
06/30/23	Workforce Housing LLC II	Extraordinary Maintenance	+ \$4,660	LV-Prairie Crossing: Replace power vented water heaters
		Extraordinary Maintenance	- \$4,660	LV-Prairie Crossing: Replace A/C units
FYE 6/30/23 Budget Impact			\$0	



# Board of Commissioners

## Request for Board Action

Meeting Date: March 27, 2024

Agenda #: 5C

**DEPARTMENT:** Finance

**FILE TYPE:** Regular - Consent

### TITLE

**Approval Of The Write-Off Of Non-Expendable Equipment For The Fiscal Year Ended June 30, 2023**

### PURPOSE/ACTION REQUESTED

Approve the write-off of non-expendable equipment for the Fiscal Year Ended June 30, 2023.

### SUMMARY

Each year, the CDA reconciles the subsidiary non-expendable equipment records to the accounting records. As a result, it is necessary each year to routinely write-off certain items of equipment that have become damaged, outdated, or are no longer in the CDA's possession.

During the reconciliation process for the fiscal year ended June 30, 2023, several items of equipment were identified as needing to be removed (written off) from the CDA's subsidiary equipment listing and general ledger. As noted in the accompanying Attachment A: Equipment Disposal List, these items were originally purchased between June 2006 and August 2016 in the amount of \$170,463.70.

### RECOMMENDATION

Staff recommends approval of this write-off of non-expendable equipment. This is being done in accordance with the requirements of the Capital Asset Policy.

### EXPLANATION OF FISCAL/FTE IMPACTS

None

None     Current budget     Other     Amendment Requested     New FTE(s) requested

### RESOLUTION

WHEREAS, during the CDA's year-end reconciliation process, the Finance Department noted certain items of non-expendable equipment had become damaged, outdated or is no longer in the CDA's possession; and

WHEREAS, these items of non-expendable equipment should be removed from the CDA's accounting and property records.

NOW, THEREFORE BE IT RESOLVED by the Dakota County Community Development Agency Board of Commissioners, That the non-expendable equipment listed in Attachment A: Equipment Disposal List totaling \$170,463.70 be written off as of June 30, 2023.

### PREVIOUS BOARD ACTION

None.

**ATTACHMENTS**

Attachment A: Equipment Disposal List

**BOARD GOALS**

- Focused Housing Programs
- Collaboration
- Development/Redevelopment
- Financial Sustainability
- Operational Effectiveness

**CONTACT**

Department Head: Ken Bauer, Finance Director

Author: Chris Meyer, Assistant Director of Finance







# Board of Commissioners

## Request for Board Action

Meeting Date: March 27, 2024

Agenda #: 5D

**DEPARTMENT:** Housing Development

**FILE TYPE:** Regular - Consent

### TITLE

**Award Contract For Haskell Court (West St. Paul) Elevator Modernization**

### PURPOSE/ACTION REQUESTED

- Authorize Deputy Executive Director to execute contract for Haskell Elevator Modernization.
- Authorize Change Order Authority.

### SUMMARY

This contract is to modernize the elevator at Haskell Court, a 42-unit senior housing development, in West. St. Paul. The process of modernization is to bring the elevator up to current codes, replace parts that are worn, obsolete or prone to failure. There are no aesthetic improvements included in this work.

This is part of a long-term plan to upgrade our elevator inventory that is aging or in need of repairs.

On March 12, 2024 at 10 a.m. a public bid opening was conducted at the CDA office for this project. There were three responsive bidders, the bid tabulation is Attachment B. Platinum Standard Elevator is the low bidder at \$110,369 when Alternates 1 and 3 are accepted. These alternates will provide better customer service to our residents and make the project go more quickly.

The project would begin and be completed in September 2024.

### RECOMMENDATION

It is recommended that the Deputy Executive Director be authorized to enter into a contract with Platinum Standard Elevator in the amount of \$110,369 and to be authorized to sign change orders in amount not to exceed \$11,036 (this is 10% the contract amount). The solicitation of bids was done in accordance with public bidding requirements and the contractor has successfully completed similar projects in the past.

### EXPLANATION OF FISCAL/FTE IMPACTS

Funds are available in the FYE24 Extraordinary Maintenance Budget.

None     Current budget     Other     Amendment Requested     New FTE(s) requested

### RESOLUTION

WHEREAS, formal bids were received on March 12, 2024 for the Haskell Elevator Modernization; and

WHEREAS, Platinum Standard Elevator submitted a responsive bid of \$110,369; and

WHEREAS, the contract is being recommended by staff and the contractor is being recommended on their prior experience; and

WHEREAS, funds are available in the current Extraordinary Maintenance budget for this project.

NOW, THEREFORE BE IT RESOLVED by the Dakota County Community Development Agency Board of Commissioners, That the Deputy Executive Director be authorized to execute a contract with Platinum Standard Elevator in the amount of \$110,369; and

BE IT FUTHER RESOLVED, That the Deputy Executive Director be authorized to approve change orders in an amount not to exceed \$11,036.

**PREVIOUS BOARD ACTION**

None.

**ATTACHMENTS**

Attachment A: Public Advertisement

Attachment B: Bid Advertisement

**BOARD GOALS**

- Focused Housing Programs
- Development/Redevelopment
- Collaboration
- Financial Sustainability
- Operational Effectiveness

**CONTACT**

Department Head: Kari Gill, Deputy Executive Director

Author: Vince Markell, Capital Projects Manager

# AFFIDAVIT OF PUBLICATION

STATE OF MINNESOTA )  
COUNTY OF DAKOTA ) ss.

Rhonda Herberg being duly sworn on an oath, states or affirms that he/she is the Publisher's Designated Agent of the newspaper(s) known as:

Dakota County Tribune

with the known office of issue being located in the county of:

DAKOTA

with additional circulation in the counties of:

DAKOTA

and has full knowledge of the facts stated below:

(A) The newspaper has complied with all of the requirements constituting qualification as a qualified newspaper as provided by Minn. Stat. §331A.02.

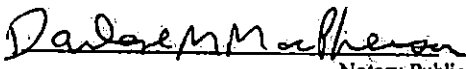
(B) This Public Notice was printed and published in said newspaper(s) once each week, for 2 successive week(s); the first insertion being on 02/23/2024 and the last insertion being on 03/01/2024.

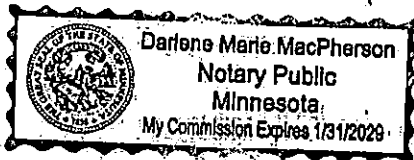
### MORTGAGE FORECLOSURE NOTICES

Pursuant to Minnesota Stat. §580.033 relating to the publication of mortgage foreclosure notices: The newspaper complies with the conditions described in §580.033, subd. 1, clause (1) or (2). If the newspaper's known office of issue is located in a county adjoining the county where the mortgaged premises or some part of the mortgaged premises described in the notice are located, a substantial portion of the newspaper's circulation is in the latter county.

By:   
Designated Agent

Subscribed and sworn to or affirmed before me on 03/01/2024 by Rhonda Herberg.

  
Notary Public



#### Rate Information:

(1) Lowest classified rate paid by commercial users for comparable space:

\$999.99 per column inch.

Ad ID: 1375524

**DAKOTA COUNTY  
COMMUNITY DEVELOPMENT AGENCY (CDA)  
EAGAN, MN 55123**

**ADVERTISEMENT FOR BIDS**

Notice is hereby given that sealed bids will be received from qualified vendors for the elevator modernization at Haskell Court 140 Haskell St. East, West St. Paul, MN 55118. Bids will be received by the Housing Development Office at the Dakota County Community Development Agency, 1228 Town Centre Drive, Eagan, MN 55123 until (before) 10:00 AM, Tuesday, March 12, 2024.

At that time, the sealed bids will be publicly opened and read aloud. Bids received after this time and date will be rejected. Telephone bids, fax bids, or electronic bids will not be accepted. Bids shall be on the forms provided for that purpose and according to the bid documents as prepared by the Dakota County CDA, or its representative. A bid tabulation or other bid result will be furnished to those that bid the project. Project information is available at our website on or before 3/1/2024 at <https://www.dakotacda.org/doing-business-with-the-cda/contracting-opportunities/>

Please review the bid documents thoroughly since the project scope has been revised and provide all the information requested.

Sealed bids shall be addressed to:  
Dakota County CDA  
1228 Town Centre Drive  
Eagan, MN 55123  
Attn: Vince Markel/Haskell Elevator Modernization

Bid security in the amount of 5% of the bid must accompany each bid in accordance with the instruction to bidders.

The CDA hereby notifies all bidders that in regard to any Contract entered into pursuant to this advertisement, Disadvantaged Business Enterprises (D.M.E.) will be afforded full opportunity to submit bids and / or proposals and will not be subjected to discrimination on the basis of race, color, sex, age, religion, or national origin.

The Dakota County CDA reserves the right to reject any and all bids, to waive irregularities and informalities therein and to award the Contract in the best interest of the Dakota County CDA.

Project contact:  
Vince Markel  
Dakota County Community Development Agency  
[vmarkel@dakotacda.org](mailto:vmarkel@dakotacda.org)  
651-675-4482

Published in the  
Dakota County Tribune  
February 23,  
March 1, 2024  
1375524

3/12/2024

**Price Results : Haskell Elevator Modernization**

<b>Bidder</b>	<b>Bid Bond</b>	<b>Add.</b>	<b>Base Bid #1</b>	<b>Alt. A1. Required operate car during work/4 hrs</b>	<b>Alt. #B2. Voluntary second shift M-F</b>	<b>Alt.# B3. Voluntary weekend work Sat &amp; Sun</b>	<b>Total Price Base bid + alt. A1, &amp; B3</b>
1 <b>Platinum Standard</b>	X	0	\$106,569.00	\$1,000.00	no bid	\$2,800.00	\$110,369.00
2 <b>Minnesota Elevator</b>	X	0	\$135,495.19	\$2,732.00	\$12,440.00	\$2,072.86	\$140,300.05
3 <b>Metro Elevator</b>	X	0	\$126,700.00	\$1,888.00	included in B3	\$37,760.00	\$166,348.00
4							
5							
6							
7							
8							
9							



# Board of Commissioners

## Request for Board Action

Meeting Date: March 27, 2024

Agenda #: 5E

**DEPARTMENT:** Community and Economic Development

**FILE TYPE:** Regular - Consent

### TITLE

**Approval Of 2024 Investment In GREATER MSP**

### PURPOSE/ACTION REQUESTED

Approve financial investment to GREATER MSP for 2024.

### SUMMARY

GREATER MSP is a public-private partnership whose mission is to accelerate regional competitiveness and inclusive economic growth through job creation, capital investment and execution of strategic initiatives. GREATER MSP works to strengthen the region's global sectors, prioritize talent and tell the region's story.

The Dakota County Community Development Agency (CDA) has been an investor in GREATER MSP since 2011. As part of our investment, the CDA is provided one seat on the GREATER MSP Board, and at the January CDA Board meeting, CDA Board Chair Mike Slavik was selected as Dakota County's representative.

GREATER MSP assists with the implementation of several economic development initiatives outlined in the Dakota County Economic Development Strategy, including creating prospect response capacity (i.e. working with site selectors); undertaking development-related resource and policy capacity; and enhancing image, marketing and branding.

### RECOMMENDATION

Staff recommends approval of a \$100,000 investment in GREATER MSP for 2024.

### EXPLANATION OF FISCAL/FTE IMPACTS

Funding for this investment is included in the FYE24 Operating Budget.

None     Current budget     Other     Amendment Requested     New FTE(s) requested

### RESOLUTION

WHEREAS, the Itasca Project conducted a study in 2010 demonstrating the need for a regional economic development organization to develop and implement a coordinated regional economic development strategy; and

WHEREAS, the Minneapolis-St. Paul Regional Economic Development Partnership (GREATER MSP) was created in 2011 through a public-private partnership to stimulate economic growth and prosperity in the region; to coordinate site selector processes for the metropolitan area; market,

brand, and promote the region; and conduct research to inform a regional economic development strategy; and

WHEREAS, the Dakota County Community Development Agency (CDA) has been granted Economic Development Authority powers by the State Legislature and the Dakota County Board of Commissioners; and

WHEREAS, GREATER MSP has developed and continues to refine a regional economic development strategy to increase economic growth in the region.

NOW, THEREFORE BE IT RESOLVED by the Dakota County Community Development Agency Board of Commissioners, That the 2024 investment of \$100,000 to GREATER MSP is approved.

**PREVIOUS BOARD ACTION**

- 23-6668; 3/21/2013
- 22-6535; 4/19/2022
- 21-6409; 4/20/2021
- 20-6247; 3/17/2020
- 19-6108; 2/26/2019
- 18-5982; 2/27/2018
- 17-5864; 4/18/2017
- 15-5651; 12/15/2015
- 15-5481; 1/20/2015
- 13-5302; 11/12/2013
- 12-5150; 11/13/2012
- 11-4998; 11/15/2011
- 10-4835; 12/14/2010

**ATTACHMENTS**

None.

**BOARD GOALS**

- Focused Housing Programs
- Collaboration
- Development/Redevelopment
- Financial Sustainability
- Operational Effectiveness

**CONTACT**

Department Head: Lisa Alfson, Director of Community and Economic Development  
Author: Lisa Alfson



# Board of Commissioners

## Request for Board Action

Meeting Date: March 27, 2024

Agenda #: 5F

**DEPARTMENT:** Housing Development

**FILE TYPE:** Regular - Consent

### TITLE

**Establish The Date For A Public Hearing To Consider Conveyance Of Property In Hastings To Dakota County**

### PURPOSE/ACTION REQUESTED

Set a public hearing date to consider the conveyance of land in Hastings to Dakota County.

### SUMMARY

On July 18, 2023 (Resolution #23-6723), the Dakota County CDA Board of Commissioners approved the authorization to enter into a purchase agreement for property in Hastings. In part, this property was acquired to assist Dakota County with Vermillion River Hastings Greenway Master Plan and to assist with improvements at the intersection of Pleasant Avenue and County Highway 46 as Project County Project 46-50. A portion of the property will be retained by the CDA for a possible future affordable housing development. This approach provided an alternative for the County to acquire the property to meet its different acquisition needs.

Minnesota Statute 469.029 requires that a public hearing be held prior to the conveyance of real property by the CDA. The attached resolution sets a public hearing to consider the conveyance of land to Dakota County at the April 9, 2024 CDA Special Board Meeting to be held at the Dakota County Government Center, Conference Room 3A Administration Center, 1590 Highway 55, Hastings, Minnesota, 55033

If approved, notice of the public hearing will be published in the Dakota County Tribune in accordance with Minnesota Statute 469.029. A Survey of the Sale Area is Attachment A.

### RECOMMENDATION

CDA staff recommend establishing a public hearing date to consider this land conveyance.

### EXPLANATION OF FISCAL/FTE IMPACTS

N/A

None     Current budget     Other     Amendment Requested     New FTE(s) requested

### RESOLUTION

WHEREAS, the Dakota County CDA has acquired property located in Hastings, Minnesota, legally described as follows:

**Greenway Corridor**



A Greenway Corridor over part of the following described subject property: The South 3016.86 feet of the East 1155 feet of the West Half of the East Half of the Section west of Pleasant Drive, EXCEPT that part platted as OLD BRIDGE FIRST ADDITION AND EXCEPT that part North of OLD BRIDGE FIRST ADDITION all in Section 32, Township 115, Range 17, Dakota County, Minnesota.

Said Greenway Corridor is described as follows: Commencing at the southwest corner of the Southwest Quarter of the Southeast Quarter said Section 32; thence North 89 degree 40 minutes 50 seconds East, assumed bearing, along the south line of said Southwest Quarter of the Southeast Quarter a distance of 144.96 feet to the west line of said east 1155 feet; thence North 01 degree 09 minutes 40 seconds West along said west line a distance of 100.02 feet to the point of beginning of the Greenway to be described; thence continue North 01 degree 09 minutes 40 seconds West along said west line a distance of 580.66 feet; thence South 31 degrees 42 minutes 20 seconds East a distance of 1.71 feet; thence North 60 degrees 04 minutes 30 seconds East a distance of 412.94 feet; thence South 79 degrees 31 minutes 18 seconds East a distance of 178.31 feet to the west line of said Pleasant Drive; thence South 01 degrees 09 minutes 40 seconds East along said west line of Pleasant Drive a distance of 379.62 feet; thence South 89 degrees 40 minutes 50 seconds West a distance of 437.55 feet; thence South 01 degrees 09 minutes 40 seconds East a distance of 370.19 feet; thence South 89 degrees 40 minutes 50 seconds West a distance of 100.01 feet to the point of beginning.

Area: 5.02 acres

### **New Right of Way**

Right of Way over part of the following described subject property: The South 3016.86 feet of the East 1155 feet of the West Half of the East Half of the Section west of Pleasant Drive, EXCEPT that part platted as OLD BRIDGE FIRST ADDITION AND EXCEPT that part North of OLD BRIDGE FIRST ADDITION all in Section 32, Township 115, Range 17, Dakota County, Minnesota. Said Right of Way is described as follows: Commencing at the southwest corner of the Southwest Quarter of the Southeast Quarter said Section 32; thence North 89 degree 40 minutes 50 seconds East, assumed bearing, along the south line of said Southwest Quarter of the Southeast Quarter a distance of 144.96 feet to the west line of said east 1155 feet; thence North 01 degree 09 minutes 40 seconds West along said west line a distance of 50.01 feet to the north line of the south 50.00 feet of said Southwest Quarter of the Southeast Quarter and the point of beginning of the Right of Way to be described; thence continue North 01 degree 09 minutes 40 seconds West along said west line of the east 1155 feet a distance of 50.01 feet; thence North 89 degrees 40 minutes 50 seconds East a distance of 288.25 feet; thence North 69 degrees 44 minutes 12 seconds East a distance of 263.81 feet to the west line of said Pleasant Drive; thence South 01 degrees 09 minutes 40 seconds East along said west line of Pleasant Drive a distance of 140.00 feet to said north line of the south 50.00 feet; thence South 89 degrees 40 minutes 50 seconds West along said north line of the south 50.00 feet a distance of 537.56 feet to the point of beginning.

Area: 0.87 acres

### **Existing Right of Way**

And that portion of the Property encumbered by the existing Highway ROW +/- 0.62 acres; and

WHEREAS, the CDA desires to work cooperatively with partners like Dakota County when possible; and

WHEREAS, pursuant to Minnesota Statutes 469.029 the Dakota County CDA must hold a public hearing prior to the conveyance of real property; and

NOW, THEREFORE BE IT RESOLVED by the Dakota County Community Development Agency Board of Commissioners, That the date for a public hearing to consider the conveyance of real property to the Partnership be established for April 9, 2024, at or after 11 a.m. at the office of the Dakota County Government Center, Conference Room 3A Administration Center, 1590 Highway 55, Hastings, Minnesota, 55033

**PREVIOUS BOARD ACTION**

23-6723; 7/18/2023

**ATTACHMENTS**

Attachment A: Survey of Sales Area

**BOARD GOALS**

- Focused Housing Programs
- Collaboration
- Development/Redevelopment
- Financial Sustainability
- Operational Effectiveness

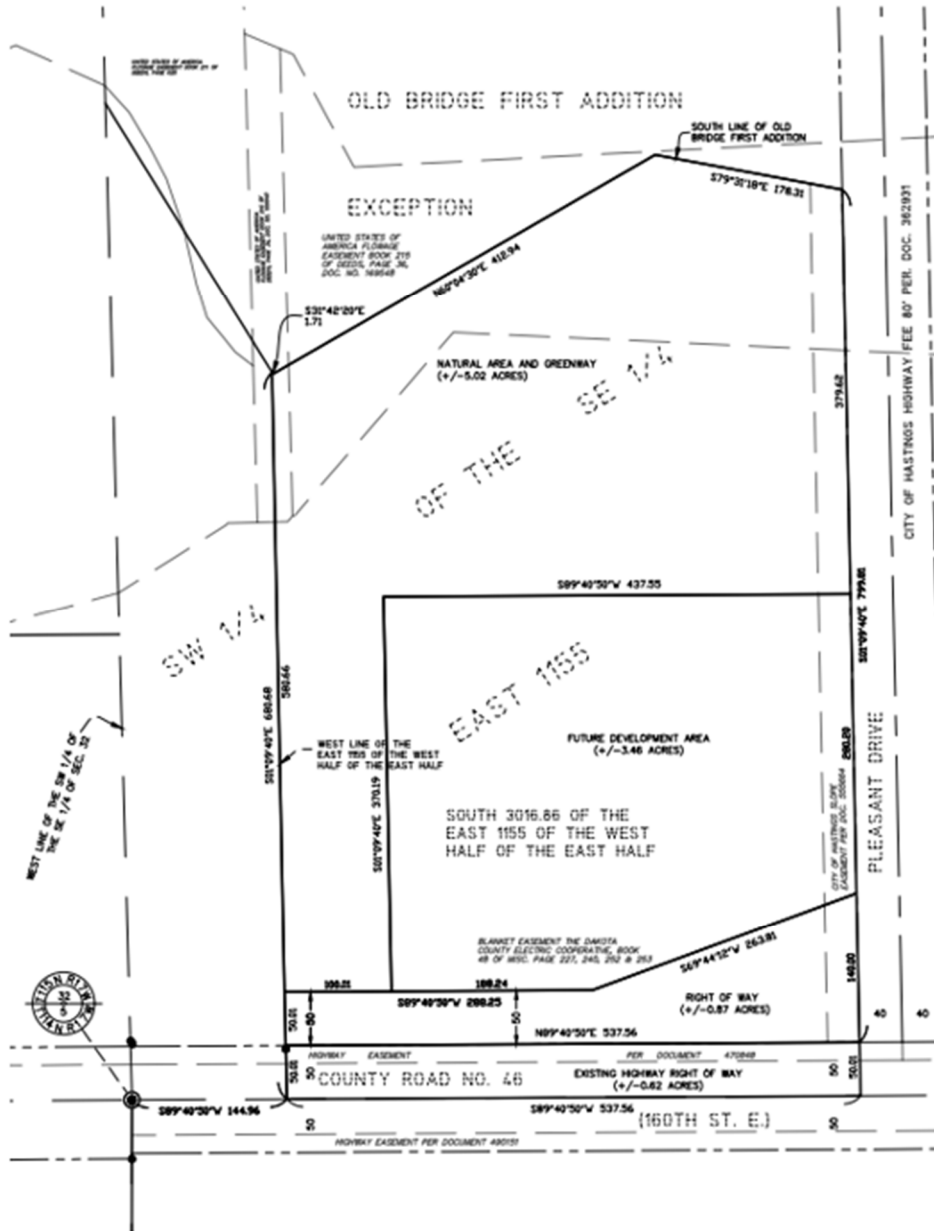
**CONTACT**

Department Head: Kari Gill, Deputy Executive Director

Author: Lori Zierden, Real Estate Manager

Attachment: Survey of the Acquisition Areas

**Survey of the Dakota County Community Development Agency Property being Acquired by the County of Dakota**





# Board of Commissioners

## Request for Board Action

Meeting Date: March 27, 2024

Agenda #: 6A

**DEPARTMENT:** Community and Economic Development

**FILE TYPE:** Regular - Action

### TITLE

**Public Hearing To Receive Comments And Adoption Of The 2025 Qualified Allocation Plan For Low Income Housing Tax Credits**

### PURPOSE/ACTION REQUESTED

- Conduct and close public hearing to receive comments on the 2025 Qualified Allocation Plan for Low Income Housing Tax Credits.
- Adopt the 2025 Qualified Allocation Plan.

### SUMMARY

The Dakota County Community Development Agency (CDA) is authorized under Section 42 of the Internal Revenue Code of 1986, as amended (the "Code") and Minnesota Statutes Sections 462A.221 through 462A.225, to allocate Low Income Housing Tax Credits (the "Tax Credits") to qualified projects in Dakota County. Prior to allocating Tax Credits under the Code, the CDA is required to adopt a Qualified Allocation Plan (QAP) detailing the basis for allocating Tax Credits among applicants.

The CDA is required by the Code to hold a public hearing prior to adopting a QAP. The public hearing was set by the CDA Board of Commissioners at its February 28, 2024 meeting and notice was published in the Dakota County Tribune on March 8, 2024, not less than 10 days in advance, as evidenced by the Affidavit of Publication in Attachment A. The notice and draft QAP were also posted on the Dakota County and CDA websites.

The Tax Reform Act of 1986 created the Housing Tax Credit Program as a means of raising private capital to finance affordable rental housing. The credit is a 10-year annual reduction in the tax liability of investors in affordable housing. The investor, typically a private corporation, makes an initial equity contribution to the development to receive the annual credit. Since 1988, tax credit equity has been used to finance the new construction, preservation and/or substantial rehabilitation of 4,402 units of affordable rental housing in 64 developments in Dakota County (Attachment B).

The Housing Tax Credit Program is administered by Minnesota Housing and local housing finance agencies such as the CDA. As required in the Code, the CDA allocates tax credits to housing projects in Dakota County according to a QAP and Procedural Manual (the "Manual"). The QAP and Manual establish the procedure and selection criteria for a competitive application process for the 9% Tax Credits, as well as 4% Tax Credits allocated on a non-competitive basis to projects financed with tax exempt bonds. The application deadline for the competitive 9% 2024 Housing Tax Credits is tentatively set for July 11, 2024.

The CDA is currently authorized to allocate an estimated \$1,128,688 of 2025 9% Tax Credits. A summary of the 2025 QAP points are in Attachment C and the proposed 2025 QAP with changes

redlined is Attachment D. In addition to the formatting and administrative revisions (including updating dates, credit amounts, and clarifying text), the most substantive revisions to the QAP proposed for 2025 include:

**a. Selection Criteria**

**Community Revitalization (a.13):**

The ability to earn points for a project located in a Qualified Census Tract (QCT) and that is a part of a community revitalization plan/Community Development Initiative has been included under our Preference Priorities section for 5 points. Code requires this be a point category. Staff proposes to remove this item from under the Preference Priorities section and merge it with Selection Criteria item #13, Rehabilitation under Community Revitalization Plan.

The proposed change to a.13 removes the requirement that a project is for rehabilitation of an existing project, adds a clear definition of what a community revitalization plan means (now referred to as a Community Development Initiative) and includes the QCT Code requirement. The revised a.13 is similar to how Minnesota Housing includes this Code preference requirement regarding a project located in a QCT which contributes to a concerted community revitalization plan.

Staff proposes this combined a.13 continue to be worth 5 points and the 5 points under the Preference Priority category be removed. Minnesota Housing has this item worth 3 points and Washington County has it is worth 1 point.

**b. Preference Priorities**

**Geographic Balance (b.3):**

As stated in the CDA Housing Finance Policy, it is the CDA’s policy to encourage the distribution of affordable housing throughout the county in order to avoid concentration of such housing in any one city or section of a city. To assist with this distribution of affordable rental housing throughout the county, staff proposes to add an item under the Preference Priorities section providing points to projects that are located in a city that has not received a 9% or 4% Tax Credit award for new affordable housing development from the CDA or through Minnesota Housing in the prior three years. Staff proposes awarding 5 points. Washington County awards 5 points to a similar item and Minnesota Housing awards 4 points.

**RECOMMENDATION**

Staff recommends adoption of the 2025 Qualified Allocation Plan for the Tax Credits. Approval of this resolution authorizes staff to prepare a Procedural Manual and a Compliance Monitoring Manual that is consistent with the QAP.

**EXPLANATION OF FISCAL/FTE IMPACTS**

None.

None     Current budget     Other     Amendment Requested     New FTE(s) requested

**RESOLUTION**

WHEREAS, pursuant to Section 42 of the Internal Revenue Code of 1986, as amended (the “Code”), and Minnesota Statutes Sections 462A.221 through 462A.225, the Dakota County Community Development Agency (CDA) is authorized to allocate low income housing tax credits (the “Tax Credits”); and

WHEREAS, in accordance with Section 42 of the Code, the CDA Board held a public hearing on March 27, 2024 regarding a Qualified Allocation Plan (the “QAP”) which details the basis for allocating Tax Credits among applicants; and

WHEREAS, notice of the public hearing was published in a newspaper of general circulation in Dakota County at least 10 days prior to the date hereof, which constitutes reasonable notice under the Code; and

WHEREAS, the CDA is currently authorized to allocate approximately \$1,128,688 of 9% 2025 Tax Credits; and

WHEREAS, pursuant to Minnesota Statutes Section 462A.222, the CDA is authorized to make allocations in connection with the “first round” of allocations for 9% 2025 Tax Credits by Minnesota Housing, which is expected to be July 11, 2024.

NOW, THEREFORE BE IT RESOLVED by the Dakota County Community Development Agency Board of Commissioners, That:

1. The public hearing has been conducted in accordance with the law and closed.
2. The QAP is hereby adopted in substantially the form on file with the CDA and staff are hereby authorized to prepare a Procedural Manual and a Compliance Monitoring Manual consistent with the QAP, to notify prospective applicants of the availability of the QAP and Procedural Manual, and to set the deadline for accepting applications for Tax Credits, consistent with Minnesota Housing’s first round deadline.
3. Because the members of the Dakota County Board of Commissioners are the ex-officio members of the Issuer, this approval constitutes approval of the QAP by the applicable elected representative of the CDA for purposes of Section 42 of the Code.

**PREVIOUS BOARD ACTION**

24-6800; 2/28/2024

**ATTACHMENTS**

- Attachment A: Affidavit of Publication
- Attachment B: Dakota County CDA 9% and 4% Tax Credit Award History
- Attachment C: 2025 Qualified Allocation Plan Point Summary
- Attachment D: 2025 Qualified Allocation Plan with redlined changes

**BOARD GOALS**

- Focused Housing Programs
- Collaboration
- Development/Redevelopment
- Financial Sustainability
- Operational Effectiveness

**CONTACT**

Department Head: Lisa Alfson, Director of Community and Economic Development  
Author: Kathy Kugel, Housing Finance Manager

**AFFIDAVIT OF PUBLICATION**

STATE OF MINNESOTA ) ss  
 COUNTY OF DAKOTA

Rhonda Herberg being duly sworn on an oath, states or affirms that he/she is the Publisher's Designated Agent of the newspaper(s) known as:

Dakota County Tribune

with the known office of issue being located in the county of:

DAKOTA

with additional circulation in the counties of:

DAKOTA

and has full knowledge of the facts stated below:

- (A) The newspaper has complied with all of the requirements constituting qualification as a qualified newspaper as provided by Minn. Stat. §331A.02.
- (B) This Public Notice was printed and published in said newspaper(s) once each week, for 1 successive week(s); the first insertion being on 03/08/2024 and the last insertion being on 03/08/2024.

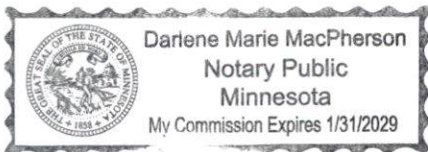
**MORTGAGE FORECLOSURE NOTICES**

Pursuant to Minnesota Stat. §580.033 relating to the publication of mortgage foreclosure notices: The newspaper complies with the conditions described in §580.033, subd. 1, clause (1) or (2). If the newspaper's known office of issue is located in a county adjoining the county where the mortgaged premises or some part of the mortgaged premises described in the notice are located, a substantial portion of the newspaper's circulation is in the latter county.

By:  Designated Agent

Subscribed and sworn to or affirmed before me on 03/08/2024 by Rhonda Herberg.

  
 Notary Public



**Rate Information:**

(1) Lowest classified rate paid by commercial users for comparable space:

\$999.99 per column inch

Ad ID 1378824

**DAKOTA COUNTY  
 NOTICE OF  
 PUBLIC HEARING**

**NOTICE OF  
 PUBLIC HEARING ON  
 THE ADOPTION OF A  
 QUALIFIED ALLOCATION  
 PLAN RELATING TO THE  
 ALLOCATION OF LOW  
 INCOME HOUSING TAX  
 CREDITS UNDER SECTION  
 42 OF THE INTERNAL  
 REVENUE CODE OF 1986,  
 AS AMENDED**

NOTICE IS HEREBY GIVEN that the Dakota County Community Development Agency (the "Agency") will meet on Wednesday, March 27, 2024, at or after 1:00 p.m. at its offices located at 1228 Town Centre Drive, Eagan, Minnesota 55123, for the purpose of conducting a public hearing regarding the adoption of its 2025 Qualified Allocation Plan, which has been prepared in compliance with Section 42 of the Internal Revenue Code of 1986, as amended ("Code"). Section 42 of the Code authorizes housing credit agencies such as the Agency to allocate low income housing tax credits ("Tax Credits") to owners of qualified residential rental projects. The 2025 Qualified Allocation Plan establishes selection criteria to be used by the Agency in the allocation of Tax Credits in Dakota County.

Members of the public can participate in the public hearing in one of the following ways:

- All persons interested may appear and be heard at the time and place set forth above.
- The public may comment in writing or via voicemail. Any comments and materials submitted by 10:00 am of the day of the meeting will be attached to the public record and available for review by the Board. Comments may be submitted to the Clerk of the Board via email at sjacobson@dakotacda.org or by voicemail at 651-675-4434.

BY ORDER OF THE DAKOTA COUNTY COMMUNITY DEVELOPMENT AGENCY

By /s/ Tony Schertler  
 Executive Director

Published in the  
 Dakota County Tribune  
 March 8, 2024  
 1378824

## Dakota County 9% and 4% Housing Tax Credit Projects

Tax Credit Type	Allocation Year	Project Name	City	Owner/Developer	Type	Tax Credit Units	Total Units
9%	1988 & 1989	Wescott Hills	Eagan	Wescott V LP	New construction	16	16
9%	1990	Parkside Townhomes	Burnsville	Dakota County CDA	New construction	22	22
9%	1991 & 1992	Glenbrook Place Townhomes	Apple Valley	Dakota County CDA	New construction	39	39
9%	1994 (MHFA)	Spruce Pointe Townhomes	Inver Grove Heights	Dakota County CDA	New construction	24	24
9%	1994	Lakeville Court Apartments	Lakeville	Sand Companies	New construction	50	52
9%	1995	Oak Ridge Townhomes	Eagan	Dakota County CDA	New construction	42	42
9%	1996	Pleasant Ridge Townhomes	Hastings	Dakota County CDA	New construction	31	31
9%	1997	Cedar Valley Townhomes	Lakeville	Dakota County CDA	New construction	30	30
9%	1998	Chasewood Townhomes	Apple Valley	Dakota County CDA	New construction	27	27
9%	1998 & 1999	Farmington Townhomes	Farmington	Sherman Associates	New construction	16	16
9%	1999 & 2000	Farmington Family Townhomes	Farmington	Hornig Companies	New construction	28	32
9%	1999 & 2001	Country Lane Townhomes	Lakeville	Dakota County CDA	New construction	29	29
9%	2000	Hillside Gables Townhomes	Mendota Heights	Dakota County CDA	New construction	24	24
9%	2001	Hastings Marketplace Townhomes	Hastings	Dakota County CDA	New construction	28	28
9%	2002	Burnsville HOC Townhomes	Burnsville	Dakota County CDA	New construction	34	34
9%	2002	Clark Place Apts (fka Kaposia Terrace)	South St. Paul	DRS Investment VII LLC (orig was Real Estate Equities)	New construction	20	20
9%	2003	Erin Place Townhomes	Eagan	Dakota County CDA	New construction	34	34
9%	2003	Prairie Crossing Townhomes	Lakeville	Dakota County CDA	New construction	40	40
9%	2004	LaFayette Townhomes	Inver Grove Heights	Dakota County CDA	New construction	30	30
9%	2004	Haralson Apartments	Apple Valley	CHDC	New supportive & workforce	36	36
9%	2005 & 2007	West Village Townhomes	Hastings	Dakota County CDA	New construction	21	21
9%	2006	Chowen Bend Townhomes	Burnsville	Chris Cooper (orig was Dominion)	Preservation/Rehabilitation	32	32
9%	2006 & 2008	Carbury Hills Townhomes	Rosemount	Dakota County CDA	New construction	32	32
9%	2007	Cliff Hills Townhomes	Burnsville	Shelter Corporation	Preservation/Rehabilitation	32	32
9%	2007 & 2008	Twin Ponds Townhomes	Farmington	Dakota County CDA	New construction	25	25
9%	2007 & 2008	Rosemount Greens	Rosemount	TCHDC	Preservation/Rehabilitation	28	28
9%	2008 & 2009 & 2010	Meadowlark Townhomes	Lakeville	Dakota County CDA	New construction	40	40
9%	2009	Chancellor Manor	Burnsville	CHDC	Preservation/Rehabilitation	186	200
9%	2010	Quarry View Townhomes	Apple Valley	Dakota County CDA	New construction	45	45
9%	1990 & 1991 & 2008	Kidder Park Townhomes (fka Park Place)	Rosemount	Boisclair Corporation	New construction/2008 substantial rehab	36	36
9%	1991 & 2011	Andrews Pointe	Burnsville	Shelter Corporation	New construction/2011 rehab	57	57
9%	2011	Twin Ponds (Phase II) Townhomes	Farmington	Dakota County CDA	New construction	26	26
9%	2012	Northwoods Townhomes	Eagan	Dakota County CDA	New construction	47	47
9%	2013	Inver Hills TH/ Riverview Ridge TH	IGH & Eagan	Dakota County CDA	New construction	51	51
9%	2014 & 2015	Lakeshore Townhomes	Eagan	Dakota County CDA	New construction	50	50
9%	2015	Keystone Crossing Townhomes	Lakeville	Dakota County CDA	New construction	36	36
9%	2016	Artspace Hastings Lofts	Hastings	Artspace	New construction	37	37
9%	2017	Lakeville Pointe	Lakeville	Ron Clark/Connelly Development	New construction	49	49
9%	2018	Prestwick Place Townhomes	Rosemount	Dakota County CDA	New construction	40	40
9%	2001 & 2002 and 2019	Guardian Angels Apartments & Townhomes	Hastings	CommonBond (2001 was Sherman Associates)	Substantial Rehab/Stabilization (2001 was new construction & rehabilitation)	33	33
9%	2019 & 2020	Wexford Place Apartments	Rosemount	Ron Clark/Connelly Development	New construction	49	49
9%	2020	Prairie Estates	Inver Grove Heights	TCHDC	Preservation/Rehab	40	40
9%	2020 & 2021	Lexington Flats	Eagan	MWF Properties LLC	New construction	50	50
9%	2021 & 2022	Babcock Crossing	Inver Grove Heights	Ron Clark/Connelly Development	New construction	49	49
9%	2023 & 2024	Denmark Trail Townhomes	Farmington	Dakota County CDA	New construction	40	40
9%	2024	Pillsbury Ridge	Burnsville	MWF Properties LLC	New construction	48	48
<b>Total 9%</b>	<b>46</b>				<b>Total 9%</b>	<b>1,779</b>	<b>1,799</b>
Tax Credit Type	Allocation Year	Project Name	City	Owner/Developer	Type	Tax Credit Units	Total Units
4%	2001	Clark Place Apts (fka Rose Apartments/aka Kaposia Apartments)	South St. Paul	DRS Investment VII LLC (orig was Real Estate Equities)	Acquisition/Rehab	48	48
4%	2002	Grande Market Place	Burnsville	Sherman	New Construction	53	113
4%	2003	Hearthstone Apartments	Apple Valley	Stonebridge	New Construction	50	228
4%	2003	Blackberry Trail Apartments	Inver Grove Heights	Michael Development	New Construction	88	219
4%	2006	Spruce Place Apartments	Farmington	CommonBond	Acquisition/Rehab	60	61
4%	2008	Waterford Commons	Rosemount	Stonebridge	New Construction	24	108
4%	2015	The Sanctuary at WSP	West St. Paul	SCA Shelter	New Construction	164	164
4%	2016	Legends at Apple Valley	Apple Valley	Dominium	New Construction	163	163
4%	2017	Whitney Grove TH (fka Oaks of AV)	Apple Valley	CommonBond	Acquisition/Rehab	55	56
4%	2018	Winslow (fka DARTS) Senior	West St. Paul	Real Estate Equities	New Construction	172	172
4%	2020	Aster House	Eagan	Real Estate Equities	New Construction	204	204
4%	2021	The Quill	Hastings	Real Estate Equities	New Construction	90	90
4%	2021	Hilltop at Signal Hills	West St. Paul	Dominium	New Construction	146	146
4%	2021	Legacy Commons at Signal Hills	West St. Paul	Dominium	New Construction	247	247
4%	2022	The Villas at Pleasant Avenue	Burnsville	MWF Properties LLC	New Construction	150	150
4%	2023	The Landing at Amber Fields	Rosemount	Real Estate Equities	New Construction	160	160
4%	2022	The Villas at Pleasant Avenue II	Burnsville	MWF Properties LLC	New Construction	110	110
4%	2023	Croft at Rosecott	Rosemount	Schafer Richardson	New Construction	164	164
<b>Total 4%</b>	<b>18</b>				<b>Total 4%</b>	<b>2,148</b>	<b>2,603</b>
<b>9% and 4%</b>	<b>64</b>				<b>Total 9% and 4%</b>	<b>3,927</b>	<b>4,402</b>



2025 Qualified Allocation Plan - Self-Scoring Worksheet		Proposed	Proposed
Description		Change from 2024	2025 Points
<b>a. Selection Criteria:</b>			
1.	New construction to increase supply	Same	10 pts
2.	Preservation - Federally Assisted Housing OR Preservation – near end of affordability requirements	Same	25 pts OR 10 pts
3.	Stabilization – trouble with occupancies/net revenues (points for #2 or #3)	Same	5 pts
4.	Readiness – land use and zoning	Same	5 pts
5.	Readiness – permanent funding sources secured	Same	Up to 15 pts
6.	Community priority locations - gov't owned	Same	10 pts
7.	Long Term Affordability	Same	Up to 8 pts
8.	Larger Family Size Units	Same	Up to 6 pts
9.	Accessible units	Same	5 pts
10.	Ownership by Non-Profit or Government	Same	5 pts
11.	Intermediary costs	Same	Up to 6 pts
12.	Homelessness/Permanent Supportive Housing Units Homeless units for 4% - 2 units	Same Same	Up to 15 pts 5 pts
13.	<del>Community Revitalization – rehabilitation and community revitalization plan</del>	5 pts	5 pts
<del>b.3.</del>	<del>QCT and Community Development Initiative</del>	Moved from Preference; was 5 pts	
14.	Eventual tenant ownership	Same	1 pt
15.	Unacceptable practices	Same	Up to -50 pts
16.	Access to transit	Same	Up to 5 pts
<b>b. Preference Priorities:</b>			
1.	Previous Tax Credit commitment/reservation	Same	30 pts
2.	Serves the lowest income tenants	Same	Up to 15 pts
3.	<b>Geographic Balance</b>	<b>New</b>	<b>5 pts</b>
		<b>2024</b>	<b>2025</b>
		<b>Max Points</b>	<b>Max Points</b>
New Construction		141	146
Rehabilitation		161	161



Dakota County  
Community Development  
Agency

**DAKOTA COUNTY CDA**

**HOUSING TAX CREDIT**

**2025 QUALIFIED ALLOCATION PLAN (QAP)**

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**DAKOTA COUNTY COMMUNITY DEVELOPMENT AGENCY  
LOW-INCOME HOUSING TAX CREDIT  
QUALIFIED ALLOCATION PLAN FOR 2025**

ARTICLE 1  
DEFINITIONS

Section 1.0. The following terms shall have the meanings assigned below for purposes of this Plan and the Procedural Manual.

- a. Act: Minnesota Statutes, Sections 462A.221 through 462A.225, as amended.
- b. Agency: The Dakota County Community Development Agency.
- c. Code: The Internal Revenue Code of 1986, as amended.
- d. Declaration: A Declaration of Land Use Restrictive Covenants in a form acceptable to the Agency, imposing restrictions required by Section 42 of the Code on a particular project receiving Tax Credits.
- e. Federally Assisted Building: As defined by Section 42, any building which is substantially assisted, financed, or operated under section 8 of the United States Housing Act of 1937, Section 221(d)(3), 221(d)(4), or 236 of the National Housing Act, Section 515 of the Housing Act of 1949, or any other housing program administered by the Department of Housing and Urban Development (“HUD”) or by the Department of Agriculture Rural Development (“RD”).
- f. Market Study: In accordance with Section 42(m)(1)(A)(iii) of the Code, a comprehensive market study of the housing needs of low-income individuals in the area to be served by the project, conducted before the Tax Credit allocation is made, and at the developer’s expense by a disinterested party approved by the Agency.
- g. MHFA: Minnesota Housing Finance Agency.
- h. Plan: This Qualified Allocation Plan adopted by the Agency pursuant to Section 42(m)(1)(B) of the Code in connection with the allocation of 2025 Tax Credits.
- i. Section 42: Section 42 of the Code, as amended, relating to Tax Credits.
- j. Single Room Occupancy: A unit having one bedroom or less with rents affordable at 30 percent of median income.
- k. Substantial Rehabilitation: Rehabilitation with a minimum cost that:

1. Equals or exceeds \$5,000 per unit, as defined in Minn. Stat. Section 462A.221, Subdivision 5; and
  2. Equals or exceed the greater of:
    - (a) An average qualified basis amount per low income unit for a building which meets the inflation adjusted amount published by the IRS annually in accordance with Section 42(e)(3)(D) of the Code; or
    - (b) An amount that is not less than 20 percent of the adjusted basis of the building, as determined pursuant to Section 42(e)(3) of the Code.
- l. Tax Credit Agencies: Any entity authorized by the State of Minnesota and Section 42 to allocate Tax Credits in Minnesota.
- m. Tax Credits: Low income housing tax credits, within the meaning of Section 42 of the Code.

## ARTICLE 2 PURPOSE; AUTHORITY

Section 2.0 Section 42(m) of the Code, requires Tax Credit Agencies to develop and adopt a qualified allocation plan in connection with the allocation of Tax Credits. This Plan for 2025 sets forth selection criteria that are appropriate to local conditions, priorities and procedures to be used by the Agency in the allocation of Tax Credits to projects and provides procedures the Agency will follow with respect to monitoring noncompliance with the provisions of Section 42 of the Code and in notifying the Internal Revenue Service of such noncompliance.

Section 2.1 The Act provides that the amount of Tax Credits available in Minnesota shall be allocated among MHFA and certain cities and counties or their designees, including the Agency as designee for Dakota County. The Agency anticipates that it will be authorized to allocate approximately \$1,128,688 of 2025 Tax Credits pursuant to this Plan.<sup>1</sup>

Section 2.2 This Plan was prepared in accordance with the procedures set forth in Section 42(m) of the Code, and is to be construed and governed under Section 42 of the Code, including applicable Treasury Regulations, and the Act. All applicable restrictions and requirements set forth in Section 42 of the Code and the applicable Treasury Regulations are hereby incorporated by reference as if fully set forth herein and to the extent of any inconsistency between this Plan and Section 42 and applicable regulations, the provisions of Section 42 and applicable regulations will govern.

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<sup>1</sup> The estimated 2025 Tax Credit amount was provided by MHFA as of January 29, 2024.

ARTICLE 3  
GENERAL CONCEPTS

Section 3.0. This Plan sets forth selection criteria which reflects the housing policies of the Agency, which will be used to determine the priorities for the allocation of Tax Credits within Dakota County. This Plan gives preferences as required by Section 42 in allocating Tax Credits among selected projects to:

- a. projects serving the lowest income tenants,
- b. projects obligated to serve qualified tenants for the longest periods, and
- c. projects which are located in a qualified census tract (as defined in Section 42(d)(5)(C) of the Code) and contribute to a concerted community revitalization plan.

As part of the evaluation by or on behalf of the Agency of applications for Tax Credits, the applicant must demonstrate, to the satisfaction of the Agency, that the proposed project is marketable and financially feasible.

In addition, this Plan provides a procedure that the Agency (or an agent or other private contractor of the Agency) will follow in monitoring for noncompliance with the provisions of the Code, including but not limited to monitoring for noncompliance with habitability standards through regular site visits, and in notifying the Internal Revenue Service of such noncompliance of which the Agency becomes aware of in accordance with Section 42, Treasury Regulations §1.42-5 and any other applicable regulations.

Section 3.1. The following factors required under Section 42(m)(1)(C) of the Code are incorporated into the selection criteria to allocate Tax Credits to projects:

- a. project location,
- b. housing needs characteristics,
- c. project characteristics, including whether the project includes the use of existing housing as part of a community revitalization plan,
- d. sponsor characteristics,
- e. tenant populations with special housing needs,
- f. whether tenant selection will involve special consideration for persons on public housing waiting lists,
- g. tenant populations of individuals with children,
- h. projects intended for eventual tenant ownership,
- i. the energy efficiency of the project, and
- j. the historic nature of the project.

Section 3.2. This Plan provides for the financial feasibility review of each project and its viability as a qualified low-income project throughout the 10-year credit period as of the application date, allocation date, and placed-in-service date, all as required under Section 42(m)(2) of the Code.

Such review is solely for the purpose of allocating Tax Credits and may not be relied upon by an applicant or investor for any other purpose.

As authorized by, the Housing and Economic Recovery Act of 2008, the Agency may increase or “boost” the eligible basis of a particular project for purposes of the allocation of Tax Credit by up to 30% (“Basis Boost”) for designated buildings that are located outside of an established Qualified Census Tract (QCT) or Difficult Development Area (DDA). The Agency will review the financial feasibility of the project and the request for additional Basis Boost in accordance with this Plan.

(This Basis Boost does not apply to buildings which receive automatic Tax Credits because they are financed with tax-exempt bonds.) This Plan establishes standards for the Agency to determine which buildings will be designated for such Basis Boost.

[This Plan also applies to projects that are tax-exempt bond financed as set forth in Section 42\(m\)\(1\)\(D\) of the Code \(the “4% Tax Credit”\).](#)

Section 3.3. Pursuant to the 2015 Protecting Americans from Tax Hikes Act, Congress made permanent the provisions of Code Section 42(b)(2) which provides 9 percent tax credit rate percentage to all non-federally subsidized new buildings which are placed in service on or after January 1, 2015 (the “9% Tax Credit”).

Pursuant to the Taxpayer Certainty and Disaster Tax Relief Act of 2020, Section 42(b)(3) of the Code was added to provide for a minimum 4% percent tax credit rate for both existing, acquired buildings and federally subsidized new construction and rehabilitation that, in general, are placed in service on or after January 1, 2021. This change in the tax credit percentage applies to buildings that are placed in service after January 1, 2021 .

#### ARTICLE 4 APPLICATION ROUNDS

Section 4.0. The Agency will accept applications on the deadline set by MHFA for the first application competition round. The application deadline for 2025 Tax Credits is tentatively scheduled for July 11, 2024, however applicants should confirm the actual deadline prior to submission of an application. All applicants applying for the 9% Tax Credit must meet the minimum threshold requirements set forth in Sections 4.1 and 4.2.

Section 4.1 A project for which 9% Tax Credits are being sought must satisfy the following minimum requirements:

- a. Under the Act and Minnesota Statutes, Sections 462A.222, Subd 3(d) and 383D.41, Subd. 11, all applicants must meet one of the following threshold types:



1. New construction or Substantial Rehabilitation of projects in which, for the term of the extended use period (term of the Declaration of Land Use Restrictive Covenants (the "Declaration")), at least 75% of the total Tax Credit units must be Single Room Occupancy, efficiency, or one bedroom units and which are affordable by households whose income does not exceed 30% of the median income;
2. New construction or Substantial Rehabilitation family housing projects that are not restricted to occupancy by persons 55 years old or older and in which, for the term of the extended use period (term of the Declaration), at least 75% of the Tax Credit units contain two or more bedrooms and at least one third of the 75% contain three or more bedrooms;
3. Substantial Rehabilitation projects located in neighborhoods targeted by the applicable city for revitalization;
4. Projects that are not restricted to persons of a particular age group and in which, for the term of the extended use period (term of the Declaration), a percentage of the units are set aside and rented to persons:
  - (a) with a serious and persistent mental illness as defined in Minnesota Statutes Section 245.462, Subd. 20(c);
  - (b) with a developmental disability as defined in the United States Code, title 42, Section 6001 paragraph (8);
  - (c) who have been assessed as drug dependent persons as defined in Minnesota Statutes Section 254A.02, Subd. 5, and are receiving or will receive care and treatment services provided by an approved treatment program as defined in Minnesota Statutes Section 254A.02, Subd. 2;
  - (d) with a brain injury as defined in Minnesota Statutes Section 256B.093, Subd. 4(a); or
  - (e) with permanent physical disabilities that substantially limit major life activities, if at least fifty percent (50%) of the units in the project are accessible as provided under Minnesota Rules Chapter 1340.
5. Projects, whether or not restricted to persons of a particular age group, which preserve existing subsidized housing, if the use of Tax Credits is necessary (1) to prevent the conversion of the project to market rate use project or (2) to remedy physical deterioration of the project which would result in loss of existing federal subsidies;

6. Projects financed by Rural Development, which meet state-wide distribution goals;
7. **One remaining** project of the following type: new construction or Substantial Rehabilitation multifamily housing project that **is** not restricted to persons who are 55 years old or older and that **is** located within one of the following areas at the time a reservation for Tax Credits is made:
  - (a) an area within one-half mile of a completed or planned light rail transitway, bus rapid transitway, or commuter rail station;
  - (b) an area within one-fourth mile from any stop along a high-frequency local bus line;
  - (c) an area within one-half mile from a bus stop or station on a high-frequency express route;
  - (d) an area within one-half mile from a park and ride lot; or
  - (e) an area within one-fourth mile of a high-service public transportation fixed route stop.

**To qualify under this threshold requirement, prior to submitting an application, the applicant must receive written confirmation from the Agency that the project meets the applicable requirements.**

For purposes of this threshold requirement, the following terms have the following meanings:

- (1) "high-frequency local bus line" means a local bus route providing service at least every 15 minutes and running between 6:00 a.m. and 7:00 p.m. on weekdays and between 9:00 a.m. and 6:00 p.m. on Saturdays;
- (2) "high-frequency express route" means an express route with bus service providing six or more trips during at least one of the peak morning hours between 6:00 a.m. and 9:00 a.m. and every ten minutes during the peak morning hour; and
- (3) "high-service public transportation fixed route stop" means a stop serviced between 6:00 a.m. and 7:00 p.m. on weekdays and 9:00 a.m. and 6:00 p.m. on Saturdays and with service approximately every 30 minutes during that time.

- b. Each project must satisfy the following additional requirements to the Agency's satisfaction:
  - 1. The Agency's underwriting standards;
  - 2. Preliminary financing commitments must be in place;
  - 3. The owner/sponsor must have substantial experience and track record in developing successful Tax Credit projects, in the judgement of the Agency. Such experience may typically be demonstrated by the owner/sponsor having developed at least five (5) successful Tax Credit projects, the Agency may also consider other factors including a smaller number of recent Tax Credit projects;
  - 4. The project must comply with applicable building, land use and zoning ordinances;
  - 5. The project must propose a number of units and otherwise be consistent with a Market Study; and
  - 6. The costs of intermediaries must not be excessive for a project of its nature and in its location.
- c. Applicants must agree to utilize public housing waiting lists in Dakota County in marketing units to the public.
- d. Owners of a Tax Credit project must agree to not refuse to rent a unit to a tenant because that tenant has a Section 8 voucher that would be used for a unit in the project. Language prohibiting discrimination based on Section 8 status must be included in the Declaration entered into by the owner with the Agency.
- e. The applicant must demonstrate by information in the application that each building in the project is a qualified low-income building under Section 42(c)(2) of the Code.
- f. The applicant must agree to enter into a Declaration in form and substance acceptable to the Agency and legal counsel appointed by the Agency. Declarations are enforceable in state court by Housing Credit Agencies and all income-eligible persons and must be recorded in the County in which the project is located.
- g. The applicant must agree to resident screening criteria as provided in the Declaration.

- h. The applicant applying for 9% and 4% Tax Credits, must agree to waive the right to request a qualified contract for a minimum of 30 years as provided in the provisions of Sections 42(h)(6)(E)(i)(II) and 42(h)(6)(F) which permits the owner to terminate the extended use period, described in Section 42(h)(6)(D) of the Code at the end of the initial 15 year compliance period. All projects will be subject to a Declaration with a term of at least 30 years, beginning with the first day of the 15-year compliance period in which the building is part of a qualified low income housing project.
- i. The applicant agrees to provide high speed internet access via installation of all appropriate infrastructure and connections for cable, DSL or wireless/data internet service to every unit.
- j. The applicant agrees to institute and maintain a written policy prohibiting smoking in all the units and all common areas within the building(s) of the project. The project must include a non-smoking clause in the lease for every unit. Projects will be required to maintain the smoke-free policy for the term of the Declaration.

Section 4.2 All new construction and substantial rehabilitation must meet the basic design requirements set forth in Exhibit C of the Procedural Manual, which includes certain energy efficiency standards. Units that are designed to meet the threshold requirements of Section 4.1.a.4. above must comply with the appropriate local, state or federal requirements or building code; e.g., to be considered a handicapped unit, the unit must be designed to meet the standards in the Minnesota State Building Code, Chapter 1341, and be certified as complying by a registered architect.

Section 4.3 The Agency will require that the threshold type under which the applicant applies be included as a requirement in the Declaration.

Section 4.4 Under State law, Tax Credits not committed or allocated by the Agency as of the last day of the first round in each year will be returned to the MHFA.

## ARTICLE 5 APPLICATION AND ALLOCATION PROCESS

Section 5.0. The application process for awarding the Tax Credits to projects located in Dakota County consists of the following steps:

- a. Each applicant shall notify the Agency of its intent to apply.
- b. Each applicant shall complete, sign, date and submit to the Agency no later than the application due date an original application and related documents on forms

required by the Agency, including all required fees, deposits and exhibits, all as set forth in the Procedural Manual.

- c. The Agency shall review and evaluate the application to:
  - 1. assure that the application is complete.
  - 2. assure that minimum threshold requirements to qualify for Tax Credits have been satisfied.
  - 3. assign points to the project according to the selection priority section of the Scoring Worksheet attached to this Plan as Schedule 1.
  - 4. determine the minimum amount of Tax Credits necessary to make the project financially feasible and viable pursuant to Code Section 42(m)(2)(B).
- d. Applicants with initial scores sufficient to receive an allocation of Tax Credits will be required to submit a Market Study, as required under Section 42(m)(1)(A) of the Code.
- e. Legal counsel appointed by the Agency shall also review the application.
- f. The Agency shall present the project to the Mayor and the staff of the city in which the project is located for review and comment prior to staff recommendation to the Agency to provide such Mayor and/or city staff with a reasonable opportunity to comment on the project.
- g. The Agency shall make a determination whether to approve or deny a commitment of Tax Credits to the project based upon the findings and selection priority criteria and the requirements of this Plan and the Procedural Manual, provided, however that the Agency reserves the right (but shall not be obligated) to grant priority over higher ranking projects to projects that (i) have previously received Tax Credits and have an annual Tax Credit shortfall of the total qualified annual Tax Credit amount and (ii) demonstrate readiness to proceed by having city approvals and all funding commitments in place (other than the Tax Credits the applicant is presently requesting). The Agency shall provide a written explanation, available to the general public, for any allocation of Tax Credits which is not made in accordance with the priorities and selection criteria set forth in this Plan.
- h. The applicant shall be required to pay the application, commitment and allocation fees in the amounts and at the times described in the Procedural Manual in effect at the time of application, commitment or allocation, respectively.

- l. The applicant shall certify that the project has been placed in service.
- j. The Agency shall reevaluate the amount of Tax Credit for the project based on final information provided by the applicant and the final costs at the time the building is placed in service pursuant to Section 42(m)(2)(B) of the Code.
- k. Legal counsel appointed by the Agency shall conduct a final review of the application.
- l. The Agency issues IRS Form 8609, Low Income Housing Credit Allocation and Certification.
- m. Evaluations of the amount of Tax Credit for a project may be completed by a fiscal consultant engaged to act on behalf of the Agency.
- n. To ensure cost reasonableness applicants will be required to provide an as-is appraisal acceptable to the Agency to substantiate the acquisition price reflected in the initial application.

Section 5.1. The Agency will evaluate project proposals to determine the amount of Tax Credits to be allocated pursuant to Section 42(m)(2)(B) of the Code. In determining the amount of Tax Credits to be allocated, the Agency will consider: the Market Study, the sources and uses of funds and the total financing planned for the project, proceeds or receipts expected to be generated by reason of tax benefits; the percentage of the Tax Credits used for project costs other than costs of intermediaries, and the reasonableness of the developmental and operational costs of the project.

The Agency will also evaluate project proposals to determine whether the Basis Boost is needed for a project to be financially feasible. In making such determination, the Agency will consider whether: (i) the project meets the housing priorities identified by the Agency, as evidenced by a 9% Tax Credit score; and (ii) any funding gaps remain for such project.

In any event, the Agency will not allocate more Tax Credits to a project, whether or not it is designated for a Basis Boost, than the amount necessary for the financial feasibility of the project and its viability as a qualified low-income housing tax credit project throughout the 10-year credit period.

The Agency's evaluation of projects and determination of the amount of Tax Credits necessary for the feasibility of the project as provided above shall not be relied upon by any developer or investor or used in connection with any offering of interests in the entity owning the project, and shall not be construed as a representation or warranty as to the feasibility or viability of the project. There will be three (3) such evaluations prior to delivery by the Agency of executed IRS 8609 Form(s) for the project, which are as follows:

- a. At the time of the initial application for a commitment of Tax Credits;
- b. At the time of any carryover allocation of Tax Credits; and
- c. At the time of the issuance of Form 8609, following the time the building is placed in service.

Prior to each evaluation, the applicant will be required to submit the most recent information about the project and fees as required by the Procedural Manual. Any federal, state or local subsidies anticipated must be documented to the satisfaction of the Agency. Misrepresentations of information will result in failure to issue IRS Form 8609, debarment from participation in the Low Income Housing Tax Credit Program, and possible criminal penalties. At each evaluation, the Agency may reduce the amount of Tax Credits to be allocated to the project or may revoke any commitment to allocate Tax Credits to the project if it determines that the financial feasibility or viability of the project does not justify the original Tax Credits applied for or committed Tax Credit amount or that the criteria and requirements of this Plan have not been satisfied.

Section 5.3. Selected applicants failing to place a project in service in the allocation year for which a commitment is made may be awarded a carryover allocation of Tax Credits if the Section 42 requirements and the requirements set forth in the Procedural Manual are met, including the Agency's review and approval of the following documentation:

- a. A written attorney's opinion letter or title policy verifying that the developer is the owner, for tax purposes, or has continued site control of the land and depreciable real property that is be expected to be part of the project; and
- b. Either (i) a written certification from a certified public accountant verifying that the owner has incurred costs in an amount greater than ten percent (10%) of the reasonably expected basis of the project (including land), or (ii) evidence acceptable to the Agency that the owner expects to incur such costs by the date which is nine (9) months after the later of the date that the allocation is made or the close of the calendar year in which the allocation is made. The certification must include a statement by the certified public accountant that they are not affiliated with the developer and/or owner of the project.

If the final carryover basis and expenditure information is not available at the time the carryover application is due, the carryover application must include a written estimate of this information prepared by the owner. Final certified public accountant certifications of this information must be submitted to the Agency prior to the deadlines established under Section 42 and by no later than the submission deadline identified in this Plan and in the Procedural Manual.

Section 5.4. The Agency reserves the right to not allocate any 2025 Tax Credits.

ARTICLE 6  
ADDITIONAL ADMINISTRATIVE PROCEDURES

Section 6.1 No application will be considered for an existing project that contains units that are subsidized by state or federal resources except for (a) troubled projects, as defined by the Agency, the occupancies and/or net revenues of which need to be stabilized, or (b) projects for which the Agency is provided evidence that such project would convert to market rate units if Tax Credits are not awarded.

Section 6.2 As described above, the Agency may elect to give priority in the award of Tax Credits to a project that previously received an award of Tax Credits and has an annual tax credit shortfall of the total qualified annual Tax Credit amount, and that demonstrate readiness to proceed by having city approvals and all funding commitments in place (other than the Tax Credits the applicant is presently requesting).

Section 6.3 No project may be divided into two or more projects during a single application round to receive Tax Credits. Multiple applications, determined by the Agency to be one project, will be returned to the applicant and all fees forfeited. The Agency will consider such factors as ownership entities, affiliated partnerships, sponsor relationships, and the location of projects, if a contiguous site, to determine if multiple applications exist.

Section 6.4 The Agency may elect to not award a partial allocation of Tax Credits to a higher-ranking application but to award the Tax Credits to the next ranking application that can use the balance of the Tax Credits.

Section 6.5 The Agency has no jurisdiction to interpret or administer Section 42 of the Code, except in those instances where it has been delegated under the Code.

Section 6.6 The Agency may consult with MHFA, local communities, PHAs, HRAs, RD and HUD to determine the marketability of projects. The Agency may decline to award Tax Credits to a project if, in the Agency's discretion, the award of Tax Credits could be materially detrimental to an existing rental property. If necessary, the Agency may require an additional, updated Market Study and will evaluate it using the data from other sources, including Tax Credit project saturation in a community.

Section 6.7 The Agency reserves the right to adjust fees due to changing circumstances in order to cover its costs associated with producing and delivering its Tax Credit Program.

ARTICLE 7  
CREDITS FOR BUILDINGS FINANCED BY TAX-EXEMPT BONDS

Section 7.0. Section 42 of the Code provides a separate set of procedures for awarding 4% Tax Credits for projects financed with the proceeds of tax-exempt bonds that receive an



allocation of private activity volume cap under Section 146 of the Code. Although such Tax Credits are not counted against the tax credit ceiling cap for the State of Minnesota, developers should be aware that:

- a. Section 42(m)(1)(D) of the Code provides, for a project to receive an allocation of 4% Tax Credits, the applicable allocating agency must determine that the project satisfies the requirements for an allocation of 4% Tax Credits under its qualified allocation plan. This Plan applies to all tax exempt bond-financed projects located within Dakota County, other than projects financed with bonds issued by MHFA.

**Note:** Bond volume cap will not be issued in an amount greater than is financially needed or reasonable for a project to be successful.

An initial determination of whether a project complies with the requirements in this Section 7.0.a will be made by the Agency, and the Agency will issue a letter pursuant to Section 42(m)(1)(D) of the Code, confirming such determination, prior to the issuance of the tax exempt bonds.

The threshold requirements in Section 4.1.a of this Plan do not apply to projects financed with tax-exempt bonds using the 4% Tax Credits. Other threshold requirements **that do apply** to projects financed with tax-exempt bonds, include, without limitation, the requirement in Section 4.1.h that projects financed with tax-exempt bonds must agree to waive the provisions of Section 42(h)(6)(E)(i)(II) and 42(h)(6)(F) which permit the owner to terminate the extended use period, described in Section 42(h)(6)(D) of the Code at the end of the initial 15 year compliance period. All projects will be subject to a Declaration with a term of at least 30 years.

In addition, to meeting the threshold requirements set forth in Article 4, the owner must also demonstrate that the project is eligible for not fewer than 25 points to qualify for the 4% Tax Credits under this Plan.

Important: To begin the above application process, the developer must submit to the Agency all documents required for an application of Tax Credits as established by this Plan and the Procedural Manual and any additional information requested by the Agency. The developer must also submit to the Agency the required application fees identified in this Plan and the Procedural Manual.

- b. Section 42(m)(2)(D) of the Code provides that in order for a tax-exempt bond financed project to receive an allocation of 4% Tax Credits, the issuer of the bonds must make a determination that the Tax Credit amount does not exceed the amount that the issuer determines is necessary for the financial feasibility of the project and its viability as a qualified housing project throughout the 10-year credit period. The determination by the issuer shall be made in a manner

consistent with this Plan and the Procedural Manual. Section 42 requires that the issuer of bonds must consider the following in making such determination:

1. the sources and uses of funds and the total financing planned for the project;
2. any proceeds or receipts expected to be generated by reason of tax benefits;
3. the percentage of the Tax Credit amount used for project costs other than the cost of intermediaries;
4. the reasonableness of the developmental and operational costs of the project; and
5. a comprehensive Market Study of the housing needs of low-income individuals in the area to be served by the project, conducted before the Tax Credit allocation is made, and at the developer's expense by a disinterested party approved by the Agency.

This determination must be made prior to the issuance of the tax exempt bonds. To the extent the Agency is also the bond issuer, it will also issue the letter required by Section 42(m)(2)(D) of the Code.

- c. The owner must enter into a Declaration.
- d. Subsequent to the project being placed in service, the owner must submit to the Agency an application and appropriate fees for Form 8609 meeting the requirements of this Plan and the Procedural Manual. The owner must also submit to the Agency any other related fees identified in this Plan and the Procedural Manual.

## ARTICLE 8 PROJECT SELECTION

Section 8.0 *Selection Priorities*: The Agency's selection priorities are set forth in the Scoring Worksheet attached hereto as Schedule 1, provided however, that the Agency reserves the right (but shall not be obligated) to grant priority over higher ranking projects to projects that: (i) have previously received an award of Tax Credits and have an annual Tax Credit shortfall of the total qualified annual Tax Credit amount and (ii) demonstrate readiness to proceed by having all city approvals and all funding commitments in place (other than the Tax Credits the applicant is presently requesting).

Section 8.1 *Preference Priorities*: The Agency's preference priorities shall be as set forth in the Scoring Worksheet attached hereto as Schedule 1.

Section 8.2 *Tie Breakers*: If two or more projects have an equal number of points, the following will be used to determine selection:

- a. The first tie breaker will be the total number of points in the preference priority selection.
- b. If a tie still remains, the second tie breaker will be if the city in which the project is located has not received Tax Credits in the last two years;
- c. If a tie still remains, the third tie breaker will be the lowest percentage of cost of intermediaries; and
- d. If a tie still remains, the Agency shall select the project which best meets the Agency's housing priorities and Dakota County's underserved communities.

#### ARTICLE 9

#### MONITORING COMPLIANCE WITH LOW-INCOME HOUSING CREDIT REQUIREMENTS

Section 9.0 The Agency will monitor compliance for each project to which it allocates Tax Credits in accordance with Section 42(m)(1)(B)(iii) of the Code and Treasury Regulation Section 1.42-5. To the extent that any provision of this Plan is inconsistent with the provisions of Treasury Regulation Section 1.42-5, as the same may be modified or amended from time to time, the provisions of Treasury Regulation Section 1.42-5 shall govern. This Article 9 is also subject to provisions of the Agency's compliance monitoring manual and to guidance issued by the Internal Revenue Service regarding compliance monitoring and reporting of non-compliance.

#### Section 9.1 RECORDKEEPING AND RECORD RETENTION PROVISIONS.

- a. RECORDKEEPING. During the 15-year compliance period, the owner of a low-income housing project is required each year to collect and retain records of the following information for each qualified low income building in the project:
  1. The total number of residential rental units in the building (including the number of bedrooms and the size in square feet of each residential rental unit);
  2. The number of occupants in each low-income unit, including minors. Housing information concerning race, ethnicity, family composition, age,

income, use and amount of Section 8 rental assistance or similar assistance, disability status and monthly rental payments of households residing in the project, which information will be required to be provided annually to HUD, beginning in the first quarter of 2010;

3. The percentage of residential rental units in the building that are low-income units, models, offices and management units;
4. The rent charged on each residential rental unit in the building (including any utility allowances), and documentation, including rent rolls, leases and utility allowances per Internal Revenue Service Notice 94-60 issued June 1994;
5. The low-income unit vacancies in the building and information that shows when, and to whom, the next available units were rented;
6. The annual income certification of each low-income tenant per unit;
7. The annual student certification of each low income tenant;
8. Documentation to support each low-income tenant's income certification (for example, verifications of income from third parties such as employers or state agencies paying unemployment compensation). Anticipated income of all persons expecting to occupy the unit must be verified and included on a Tenant Income Certification **prior** to occupancy and annually recertified (if applicable) for continued eligibility. Specific forms of income verification are in the Procedural Manual. Tenant income is calculated in a manner consistent with the determination of annual income under Section 8 of the United States Housing Act of 1937 (Section 8), not in accordance with the determination of gross income for federal income tax liability. In the case of a tenant receiving housing assistance payments under Section 8, the documentation requirement of this paragraph is satisfied if the public housing authority provides a statement to the building owner declaring that the tenant's income does not exceed the applicable income limit under Code Section 42(g).

NOTE: Projects that are 100% low-income must have ALL identified noncompliance corrected before requesting an exemption to filing annual income recertifications. The Agency or its authorized delegate will determine whether a 100% low-income project is eligible for an exemption of future tenant income recertifications and will notify the owner.;

9. The character and use of the nonresidential portion of the building included in the building's eligible basis under Code Section 42(d) (e.g.,

tenant facilities that are available on a comparable basis to all tenants and for which no separate fee is charged for use of the facilities, or facilities reasonably required by the project);

10. The eligible basis and qualified basis of the building at the end of the first year of the 10-year credit period; and
  11. Any additional records necessary to verify compliance with additional restrictions included in the carryover agreement or Declaration.
- b. RECORD RETENTION. The owner of a low-income housing project is required to retain the records described in paragraph 9.1.a of this section for each building in the project for at least six (6) years after the due date (with extensions) for filing the federal income tax return for that year. The records for the first year of the Tax Credit period, however, must be retained for at least six (6) years beyond the due date (with extensions) for filing the federal income tax return for the last year of the 15-year compliance period with respect to the building.
- c. INSPECTION RECORD RETENTION PROVISION. Under the inspection record retention provision, the owner of a low-income housing project is required to retain the original local health, safety or building code violation reports or notices that were issued by the state or local government unit for the Agency's inspection under this section. Retention of the original violation reports or notices is not required once the Agency reviews the violation reports or notice and completes its inspection, unless the violation remains un-corrected.

## Section 9.2 CERTIFICATION AND REVIEW

- a. CERTIFICATION. The owner of a low-income housing project shall certify at least annually to the Agency that, for the preceding 12-month period --
1. The project meets the requirements of the 20-50 test under Code Section 42(g)(1)(A), the 40-60 test under Code Section 42(g)(1)(B) or the average income test under Code Section 42(g)(1)(C), whichever minimum set-aside test is applicable to the project;
  2. The project complies with the requirements for special set-aside on which the Tax Credit allocation was based;
  3. There was no change in the applicable fraction (as defined in Code Section 42(c)(1)(B)) of any building in the project, or that there was a change, and the description of the change;

4. The owner has received an annual income certification and an Annual Student Certification from each low-income tenant and documentation to support that certification. In the case of a tenant receiving Section 8 housing assistance payments, the statement from a public housing authority described above, may be accepted as verification of the household's income. At annual recertification, owner has received an Annual Student Certification and, where applicable, a Tenant Income Certification with supporting documentation from each low income household;
5. Each low-income unit in the project is rent restricted under Code Section 42(g)(2);
6. No tenants in low-income units were evicted or had their tenancies terminated other than for good cause and no tenants had an increase in the gross rent for a low-income unit not permitted by Section 42;
7. All units in the project are for use by the general public and were used on a non-transient basis (except for transitional housing for the homeless provided under Code Section 42(i)(3)(B)(iii) or single-room-occupancy units rented on a month to month basis under Code Section 42(i)(3)(B)(iv));
8. No finding of discrimination under the Fair Housing Act, 42 U.S.C.A. §§ 3601 – 3619, has occurred for the project. A finding of discrimination includes: an adverse final decision by the Secretary of Housing and Urban Development (HUD), 24 C.F.R. 180.680, an adverse final decision by a substantially equivalent state or local fair housing agency 42 U.S.C.A. §3616a(a)(1), or an adverse judgment from a federal court;
9. Each building and each low-income unit in the project is suitable for occupancy, taking into account local health, safety, and building codes (or other habitability standards), and the state or local government unit responsible for making local health, safety, or building code inspections did not issue a violation report for any building or low-income unit in the project. If a violation report or notice was issued by the governmental unit, the owner must attach a statement summarizing the violation report or notice or a copy of the violation report or notice to the annual certification submitted to the Agency under this section. In addition, the owner must state whether the violation has been corrected;
10. There has been no change in the eligible basis (as defined in Code Section 42(d)) of any building in the project, or that there has been a change, and the nature of the change (e.g., a common area has become commercial

space, or a fee is now charged for a tenant facility formerly provided without charge);

11. All tenant facilities included in the eligible basis under Code Section 42(d) of any building in the project, such as swimming pools, other recreational facilities, and parking areas, are provided on a comparable basis without charge to all tenants in the building;
  12. If a low-income unit in the project became vacant during the year, that reasonable attempts were or are being made to rent that unit or the next available unit of comparable or smaller size to tenants having a qualifying income before any units in the project were or will be rented to tenants not having a qualifying income;
  13. If the income of tenants of a low-income unit in the project increases above the limit allowed in Code Section 42(g)(2)(D)(ii), the next available unit of comparable or smaller size in the project was or will be rented to tenants having a qualifying income;
  14. An extended low-income housing commitment as described in Code Section 42(h)(6) was in effect (for buildings subject to Section 7108(c)(1) of the Revenue Reconciliation Act of 1989, 103 Stat. 2106, 2308-2311), and the project meets the provisions, including any special provisions, of the extended low-income housing commitment, including the requirement under Code Section 42(h)(6)(B)(iv) that an owner cannot refuse to lease a unit in the project to an applicant because the applicant holds a voucher or certificate of eligibility under Section 8 of the United States Housing Act of 1937, 42 U.S.C.A. § 1437s (for buildings subject to Section 13142(b)(4) of the Omnibus Budget Reconciliation Act of 1993, 107 Stat. 312, 438-439);
  15. The project complies with the requirements for all applicable federal or state housing programs (e.g., FmHA assistance, HOME, Section 8 or tax-exempt financing), as applicable;
  16. The project is otherwise in compliance with the Code, including any Treasury Regulations, the applicable Qualified Allocation Plan, and all other applicable laws, rules and regulations; and
  17. There has been no change in the ownership or management of the project.
- b. REVIEW. The Agency shall review the certifications submitted under Section 9.2(a) above for compliance with the requirements of Section 42 of the Code. In addition:

1. An owner of a low-income housing project must submit to the Agency a completed, Agency signed copy of IRS Form 8609 for the first year of the credit period, together with Form 8609-A and Form 8586.
  2. The Agency will conduct on-site inspections of all buildings in the project by the end of the second calendar year following the year the last building in the project is placed in service and at least once every three years throughout the Compliance Period. The Agency will also review the tenant income certifications for the number of units as required in Treasury Regulation 1.42-5 and the documentation the owner has received to support those certifications. Less frequent inspections may occur after the 15-year compliance period has expired.
  3. Projects to be inspected must be chosen in a manner that will not give owners of low income housing projects advance notice that their records for a particular year will or will not be inspected. The Agency may give an owner reasonable notice that an inspection will occur so that the owner may assemble records (i.e., 15 days advance notice of inspection).
- c. FREQUENCY AND FORM OF CERTIFICATION. The certifications of and review of this section shall be made at least annually for the term of the Declaration and shall be made under penalty of perjury.

Section 9.3. INSPECTION PROVISION. The Agency shall have the right to perform an on-site inspection of any project at least through the end of the term of the Declaration. An inspection will include a physical inspection of any building(s) in the project, any units in the project, and a review of records described above. The auditing provision of this paragraph is required in addition to any inspection of low-income certifications, supporting documents and rent records under Section 9.2.b above.

Section 9.4 NOTIFICATION OF NONCOMPLIANCE

- a. GENERAL. The Agency shall provide the owner of the project notice of noncompliance as set forth in Section 1.42-5(e)(2) of the Treasury Regulations and notice to the Internal Revenue Service as set forth in Section 1.42-5(e)(3) of the Treasury Regulations.
- b. NOTICE TO OWNER. The Agency shall provide prompt written notice to the owner of a project if the Agency does not receive the certification described in Section 9.2.a hereof or discovers in an audit, inspection or review, or in some other manner, that the project is not in compliance with the Section 42 of the Code.
- c. NOTICE TO INTERNAL REVENUE SERVICE. Within 45 days after the expiration of the correction period, the Agency will file Form 8823, Low-Income Housing Credit



Agencies Report of Noncompliance, with the Internal Revenue Service (as described in Section 9.5 hereof, including extensions permitted under that paragraph). The Agency must check the appropriate box on Form 8823 indicating the nature of the noncompliance or failure to certify and indicating whether or not the owner corrected the noncompliance or failure to certify. If the Agency reports on Form 8823 that a building is entirely out of compliance and will not be in compliance at any time in the future, the Agency need not file Form 8823 in subsequent years to report that building's noncompliance.

Section 9.5 CORRECTION PERIOD. The correction period shall be that period specified in the notice to the owner during which an owner will have the opportunity to supply any missing certifications or bring the project into compliance with the provisions of Section 42. The correction period will be set by the Agency and will not exceed 90 days from the date of the notice to the owner described in 9.4.b. The Agency may extend the correction period up to six (6) months, but only if the Agency determines there is good cause for granting an extension.

Section 9.6 AUTHORITY RETENTION OF RECORDS. The Agency must retain records of noncompliance or failure to certify for six (6) years beyond the Agency's filing of the respective Form 8823. In all other cases, the Agency must retain the certifications and records described in paragraph 9.2.a of this Plan for three (3) years from the end of the calendar year the Agency receives the certifications and records.

Section 9.7 DELEGATION OF AUTHORITY.

- a. GENERAL. The Agency may retain an agent or other private contractor (the "Authorized Delegate") to perform compliance monitoring. The Authorized Delegate must be unrelated to the owner of any building that the Authorized Delegate monitors. The Authorized Delegate may be delegated all of the functions of the Agency to monitor compliance, except for the responsibility of notifying the Internal Revenue Service under Section 9.4.c hereof. For example, the Authorized Delegate may be delegated the responsibility of reviewing tenant certifications and documentation under Section 9.2.b hereof, the right to inspect buildings as described in Section 9.3 hereof, and the responsibility of notifying building owners of lack of certification of noncompliance under Section 9.4 hereof.
- b. LIMITATIONS. In the event the Agency delegates compliance monitoring to an Authorized Delegate, the Agency shall use reasonable diligence to ensure that the Authorized Delegate properly performs the delegated monitoring functions. Delegation by the Agency of compliance monitoring functions to an Authorized Delegate shall not relieve the Agency of its obligation to notify the Internal Revenue Service of any noncompliance of which the Agency becomes aware of.

Section 9.8 LIABILITY. Compliance with the requirements of Section 42 is the responsibility of the owner of the building for which the Tax Credit is allowable. The Agency's

obligation to monitor for compliance with the requirements of Section 42 does not make the Agency liable for an owner's noncompliance under Section 42 or the Declaration.

ARTICLE 10  
AMENDMENTS TO PLAN

This Plan is subject to modification or amendment at any time to ensure that the provisions contained herein conform to the requirements of Section 42 of the Code, applicable State law, and all official interpretations thereof. Such modifications or amendments and the manner of adoption thereof shall not be inconsistent with the Code. Amendments required solely to comply with the Code, applicable regulations or applicable state law as may be approved by the Executive Director. The Executive Director, in its sole discretion, may also make non-substantive changes to this Plan to update population changes, dates, other minor updating or to correct clerical errors.

## SCHEDULE 1

### SELF-SCORING WORKSHEET 2025 Housing Tax Credit Program



Applicant Name \_\_\_\_\_  
Project Name \_\_\_\_\_  
Project Address/Location \_\_\_\_\_  
Project City \_\_\_\_\_

Please note the following:

1. Documentation of Points

Indicate the selection and/or preference priority points expected for your project. Where multiple points per section are available please check the appropriate box (  ) for points claimed. **Attach directly to this self-scoring worksheet, a separate detailed sheet and documentation that clearly supports points claimed.** The Dakota County Community Development Agency (Agency) will determine the actual selection points awarded. Points will not be awarded unless documentation is provided along with the application to justify the points claimed.

Applicants must demonstrate the project is eligible for not fewer than 25 points to qualify for the 4% Tax Credits under this Plan.

2. Extended Duration

*Projects requesting 9% and 4% Tax Credits:* Such projects must maintain the low-income use for a minimum of 30 years. The owner agrees that IRC Sections 42(h)(6)(E)(i)(II) and 42(h)(6)(F) (which would permit the owner to terminate the restrictions under the Declaration at the end of the 15- year compliance period in the event the Agency does not present the owner with a qualified contract for the acquisition of the project) do not apply to the project, and that the Section 42 income and rent restrictions shall apply for the period of 30 years beginning with the first day of the 15- year compliance period in which the building is part of a qualified low income housing project.

3. Design Standards

The project must meet the Tax Credit Design Standards as specified in the Procedural [Manual](#) and be evidenced by a Design Standards Certification form executed by the owner and architect.

4. Declaration of Land Use Restrictive Covenants

A Declaration covering the rent and income limits and occupancy requirements, including student eligibility requirements, must be placed on the building(s) and recorded in the county in which the project is located.

5. Section 8 Voucher Acceptance

Owners of a Tax Credit project must agree to not refuse to rent a unit to a tenant because that tenant has a Section 8 voucher that would be used for a unit in the project. Language prohibiting discrimination based on Section 8 status must be included in the Declaration entered into by the owner with the Agency. Declarations are enforceable in state court by housing credit agencies and all income-eligible persons.

## MINIMUM THRESHOLD REQUIREMENTS

All applicants must meet one of the seven (7) following threshold types. **To qualify for threshold #7 the applicant must have written approval from the Agency prior to submission of the application.** Check one box for project type 1-7 below. In the event Minnesota Statutes are modified to allow additional threshold requirements, this worksheet will be modified accordingly.

1.	<input type="checkbox"/>	New construction or Substantial Rehabilitation of projects in which, for the term of the Declaration), at least 75% of the total Tax Credit units are Single Room Occupancy, efficiency, or one bedroom units and which are affordable by households whose income does not exceed 30% of the median income.
2.	<input type="checkbox"/>	New construction or Substantial Rehabilitation family housing projects that are not restricted to occupancy by persons 55 years old or older and in which, for the term of the extended use period (term of the Declaration), at least 75% of the Tax Credit units contain two or more bedrooms and at least one third of the 75% contain three or more bedrooms.
3.	<input type="checkbox"/>	Substantial Rehabilitation projects in neighborhoods targeted by the applicable city for revitalization.
4.	<input type="checkbox"/>	<p>Projects that are not restricted to persons of a particular age group and in which, for the term of the extended use period (term of the Declaration), a percentage of the units are set aside and rented to (check one, if applicable):</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Persons with a serious and persistent mental illness as defined in Minnesota Statutes Section 245.462, Subd. 20(c);</li> <li><input type="checkbox"/> Persons with a developmental disability as defined in the United States Code, Title 42, Section 6001(8);</li> <li><input type="checkbox"/> Persons who have been assessed as drug dependent persons as defined in Minnesota Statutes Section 254A.02, Subd. 5, and are receiving or will receive care and treatment services provided by an approved treatment program as defined in Minnesota Statutes Section 254A.02, Subd. 2;</li> <li><input type="checkbox"/> Persons with a brain injury as defined in Minnesota Statutes Section 256B.093, Subd. 4(a); <u>or</u></li> <li><input type="checkbox"/> Persons with permanent physical disabilities that substantially limit major life activities, if at least fifty percent (50%) of the units in the project are accessible as provided under Minnesota Rules Chapter 1340</li> </ul>
5.	<input type="checkbox"/>	Projects, whether or not restricted to persons of a particular age group, which preserve existing subsidized housing if the use of Tax Credits is necessary to prevent conversion to market rate use or to remedy physical deterioration of the project which would result in loss of existing federal subsidies.
6.	<input type="checkbox"/>	Projects financed by Rural Development which meet state-wide distribution goals.
7.	<input type="checkbox"/>	<p><b><u>In addition to Thresholds 1-6, the Agency may allocate Tax Credits to one remaining project that is a new construction or Substantial Rehabilitation multifamily housing project that is not restricted to persons 55 years of age or older and is located within one of the following areas at the time a reservation for Tax Credits is made:</u></b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> an area within one-half mile of a completed or planned light rail transitway, bus rapid transitway, or commuter rail station;</li> <li><input type="checkbox"/> an area within one-fourth mile from any stop along a high-frequency local bus line;</li> <li><input type="checkbox"/> an area within one-half mile from a bus stop or station on a high-frequency express route;</li> </ul>

		<input type="checkbox"/> an area within one-half mile from a park and ride lot; <u>or</u> <input type="checkbox"/> an area within one-fourth mile of a high-service public transportation fixed route stop; For purposes of this section, the following terms have the meanings given them: (1) "high-frequency local bus line" means a local bus route providing service at least every 15 minutes and running between 6:00 a.m. and 7:00 p.m. on weekdays and between 9:00 a.m. and 6:00 p.m. on Saturdays; (2) "high-frequency express route" means an express route with bus service providing six or more trips during at least one of the peak morning hours between 6:00 a.m. and 9:00 a.m. and every ten minutes during the peak morning hour; and (3) "high-service public transportation fixed route stop" means a stop serviced between 6:00 a.m. and 7:00 p.m. on weekdays and 9:00 a.m. and 6:00 p.m. on Saturdays and with service approximately every 30 minutes during that time. <u>(Minnesota Statutes Section 383D.41, Subdivision 11)</u> <b>Note: To qualify for Threshold #7 the applicant must have written approval from the Agency prior to submission of the application.</b>
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**DAKOTA COUNTY CDA ADDITIONAL THRESHOLD REQUIREMENTS**

All applicants must meet the following additional threshold requirements. Check boxes below to indicate the acceptance of these requirement:

8.	<input type="checkbox"/>	<input type="checkbox"/> The project satisfies the Agency’s underwriting standards and the Agency determines the owner has sufficient experience. <input type="checkbox"/> The application demonstrates reasonable operating expenses relative to comparable projects in the past, <input type="checkbox"/> The project complies with applicable building, land use and zoning ordinances, <input type="checkbox"/> The project is consistent with a Market Study, <u>and</u> <input type="checkbox"/> The costs of intermediaries meet the criteria set forth in the Procedural Manual.
9.	<input type="checkbox"/>	Applicants must agree to utilize public housing waiting lists in Dakota County in marketing units to the public.
10.	<input type="checkbox"/>	The owner agrees to not refuse to rent a unit to a tenant because that tenant has a Section 8 voucher and that language prohibiting discrimination based on Section 8 status will be included in the Declaration.
11.	<input type="checkbox"/>	The applicant demonstrates by information submitted in the application that each building in the project is a qualified low-income building under Section 42(c)(2) of the Code.
12.	<input type="checkbox"/>	The applicant agrees to enter into a Declaration in form and substance acceptable to the Agency and legal counsel appointed by the Agency.
13.	<input type="checkbox"/>	The applicant agrees to apply resident screening criteria as provided in the Declaration.
14.	<input type="checkbox"/>	For 9% and 4% Tax Credit projects, the applicant agrees to waive the provisions of Sections 42(h)(6)(E)(i)(II) and 42(h)(6)(F) which permits the owner to terminate the rent and income restrictions under the Declaration at the end of the initial 15-year compliance period. All Tax Credit projects must maintain the low-income use for a minimum of 30 years.
15.	<input type="checkbox"/>	The applicant agrees to provide high speed internet access via installation of all appropriate infrastructure and connections for cable, DSL or wireless/data internet service to every unit.
16.	<input type="checkbox"/>	The applicant agrees to institute and maintain a written policy* prohibiting smoking in all the units and all common areas within the building/s of the project. The project must include a non-smoking clause in the lease for every household. Projects will be required to maintain the smoke-free policy for the term of the Declaration.  *A written policy must be submitted with the application and should include procedures regarding transitioning to smoke-free for existing residents and the establishment of smoking areas outside of units and common areas, if applicable. Consequences for tenants violating the smoke-free policy will be determined by the owner and must be included in the written policy for the project.

## SELECTION PRIORITIES

SELECTION PRIORITIES			
<b>a. SELECTION CRITERIA</b>			
<p><u>Check the box to the left of the descriptions below to indicate selection and/or preference priority points expected. The Agency will determine actual points to be awarded, based on the application and the documentation submitted. All applicants for 9% Tax Credits will be scored competitively against other applications received. All applicants for 4% Tax Credits with tax exempt volume cap bonds must meet a minimum score of 25 points.</u></p>		<u>Developer Claimed</u>	<u>Agency Awarded</u>
<b>New Construction (10 Points)</b>			
1.	New construction which increases the supply of affordable rental housing in Dakota County (10 points).		
<b>Preservation and Stabilization of Affordable Housing (Up to 25 Points)</b>			
2.	<p>Preservation of Affordable Housing:</p> <p><input type="checkbox"/> Preservation of Federally Assisted Housing (25 Points): Points are awarded to projects that preserves low-income housing receiving assistance under Section 8 or Section 236 or other similar project-based subsidy which, due to mortgage prepayments or expiring rental assistance, would convert to market rate use. The Agency in its sole discretion must agree that a market exists for a conversion to market rate housing.</p> <p>OR</p> <p><input type="checkbox"/> Preservation (10 Points): Points are awarded to projects that preserve the rent and income restrictions under an existing use agreement which, due to expiring affordability periods would convert to market rate use. The Agency, in its sole discretion, will verify that a market exists for a conversion to market rate housing.</p> <p>Applicant must agree in writing to continued renewals of the existing project-based housing subsidy payment contract for as long as assistance is available.</p>		
3.	<p>Stabilization of Affordable Housing (5 Points)</p> <p>Points are awarded to projects with existing federally assisted units or previously funded by Tax Credits or deferred loans from the Agency or other public entity, <u>that are not also claiming points in the Preservation of Affordable Housing category</u> which are experiencing trouble with occupancies and/or net revenues which need to be stabilized.</p> <p>Applicants must provide narratives to support the approach of a planned, long term and cost effective stabilization that meets all of the following criteria:</p> <p>i) Suitability for long term stabilization:</p> <p style="margin-left: 20px;">a. 18 or more years have passed since initial loan closing or most recent Tax Credit placement in service date; and</p> <p style="margin-left: 20px;">b. Operating feasibility shows duration of at least 20 years.</p> <p>AND</p> <p>ii) Collaborative relationship in place Points claimed and deemed eligible for Financial Readiness to Proceed, minimum of 6 points.</p> <p>AND</p> <p>iii) Affordability and Cost Effectiveness Points claimed and deemed eligible in Preference Priorities b.2 (Serves Lowest Income Tenants/Rent Reduction)</p>		

		<u>Developer Claimed</u>	<u>Agency Awarded</u>
<b>Readiness to Proceed (Up to 20 Points)</b>			
4.	Points are awarded to projects that, at the time of application, have received final land use entitlements up to and including preliminary plat approvals, final Comprehensive Plan amendments (if any), final zoning approvals and site plan authorization. (5 points)		
5.	<p>Financial Readiness (up to 15 points). Points are awarded to projects that have secured funding commitments for permanent funding sources or have no funding gap at the time of application. Words synonymous with “consider” or “may” award are not valid or acceptable.</p> <p>The calculation below must exclude all first mortgage financing and anticipated Tax Credit proceeds from the current Tax Credit request. Committed syndication proceeds from previously reserved Tax Credits may be included in the calculation.</p> <p>Acceptable documentation of syndication proceeds from Tax Credits awarded in a previous cycle/round is an executed agreement or letter of intent from a syndicator/investor which is acceptable to the Agency. The executed agreement or letter of intent must: (1) be current and dated within 15 days of application; (2) contain a projected closing date; (3) contain a projected equity price for the purchase of the Tax Credits; and (4) contain a detailed explanation of the assumptions being used by the syndicator/investor to arrive at the projected equity price.</p> <p>Total eligible funding secured, awarded or committed (exclude first mortgage and syndication proceeds as described above)      \$ _____</p> <p>Divided by total development cost less first mortgage and excluded syndication proceeds      \$ _____</p> <p>Equals percentage of funds committed, rounded to the nearest tenth      _____ %</p> <p>Check box that applies:  <input type="checkbox"/> 70.1% or more of gap funds committed or no gap (15 points)  <input type="checkbox"/> 50.1 – 70.0% of gap funds committed (10 points)  <input type="checkbox"/> 30.1 – 50.0% of gap funds committed (6 points)  <input type="checkbox"/> 10.1 – 30.0% of gap funds committed (2 points)</p> <p><b>Please see the Procedural Manual Section VIII. A. for details.</b></p> <p>If points are claimed and the funding is returned/not used the affordability requirements for that (those) funding source(s) will be included in the Declaration.</p>		
<b>Community Priority Locations (10 Points)</b>			
6.	Points are awarded to projects located on property fully/entirely owned by the Agency, Dakota County, or a municipality in Dakota County at the time of application. (10 points)		

		<u>Developer Claimed</u>	<u>Agency Awarded</u>
<b>Long Term Affordability (Up to 8 Points)</b>			
7.	<p>Points are awarded to projects that agree to extend the long-term affordability of the project and maintain the duration of low-income use beyond the required minimum of 30 years by agreeing to:</p> <p>Check box that applies:</p> <p><input type="checkbox"/> Extend the long-term affordability of the project and maintain the duration of low-income use for a minimum of <b>35 years</b> (2 points)</p> <p><input type="checkbox"/> Extend the long-term affordability of the project and maintain the duration of low-income use for a minimum of <b>40 years</b> (4 points)</p> <p><input type="checkbox"/> Extend the long-term affordability of the project and maintain the duration of low-income use for a minimum of <b>45 years</b> (6 points)</p> <p><input type="checkbox"/> Extend the long-term affordability of the project and maintain the duration of low-income use for a minimum of <b>50 years</b> (8 points)</p>		
<b>Large Family Housing (up to 6 points)</b>			
8.	<p>Points are awarded to projects that promote family housing that is not restricted to persons 55 years old or older for the term of the Declaration, where 25% or more of the Tax Credit units in the project have 3 or more bedrooms.</p> <p>Check box that applies:</p> <p><input type="checkbox"/> At least 30% of the Tax Credit units have 3 or more bedrooms (3 points)</p> <p><input type="checkbox"/> At least 50% of the Tax Credit units have 3 or more bedrooms (6 points)</p>		
<b>Accessible Units (5 Points)</b>			
9.	<p>At least 25% of the Tax Credit units in the project are designed, equipped and set aside for the developmentally, physically or mentally disabled and there is a referral and marketing plan that includes an agreement with an established organization to provide services for such persons. (5 points)</p>		
<b>Ownership by Non-Profit or Governmental Unit (5 Points)</b>			
10.	<p>A qualified non-profit or a governmental unit is the sole general partner/managing member. (5 points)</p> <p>The non-profit must be organized and incorporated in the State of Minnesota and have at least five-year's experience in Minnesota owning and operating at least 100 units of affordable Tax Credit housing. Points will only be awarded to local non-profits. To be eligible for points, the non-profit must be a qualified non-profit tax-exempt organization within Code Section 501(c)(3) at the time of application, and must also meet the requirements of Section 42(h)(5)(C) of the Code. For a non-profit, a copy of the Certificate of Incorporation from the Secretary of State of Minnesota and organization documentation evidencing the 501(c)(3) status must be submitted at the time of application.</p> <p>These points are awarded because the Agency has an assumption that such organizations have a mission that results in perpetual affordability of the units. Points will not be awarded if the non-profit/governmental organization has been a project sponsor or general partner/managing member of a project that converted units to market rate units in the past three (3) years without the consent of the issuing public agency within Minnesota.</p>		



		<u>Developer Claimed</u>	<u>Agency Awarded</u>
<b>Intermediary Costs (Up to 6 Points)</b>			
11.	<p>Points are awarded to projects with the lowest intermediary costs on a sliding scale based on the percentage of total development costs. For applicants receiving points under this item, this percentage will be enforced at issuance of IRS Form 8609.</p> <p>Total intermediary costs \$ _____</p> <p>Divided by Total Development Cost \$ _____</p> <p>Equals percentage of costs toward intermediaries, rounded to the nearest tenth _____%</p> <p>Check box that applies:</p> <p><input type="checkbox"/> 0 – 15.0% of total development cost (6 points)</p> <p><input type="checkbox"/> 15.1 – 20.0% of total development cost (3 points)</p> <p><input type="checkbox"/> 20.1 – 25.0% of total development cost (2 points)</p>		
<b>Homelessness (Up to 15 points)</b>			
<p>These units must provide rental assistance or for those units occupied by households without rental assistance that are seeking these points, the gross rent, including an allowance for tenant-paid utilities, cannot exceed the greater of 30 percent of the household’s monthly income or the most current supportive housing standard for the unit size as published by MHFA. Owners must establish and implement policies and procedures to specify the calculation method used to determine the appropriate rent amount and the periodic income recertification used when adjusting rents.</p> <p>Applicants that claim this criterion and are selected will be required to comply with any due diligence/reporting requirements after selection and term of the declaration. Failure to comply could result in the loss of the award and/or allocation as well as the assessment of penalty points.</p>			
12.	<p><b>Permanent Supportive Housing Units.</b> Points are awarded to projects that commit suitable Tax Credit units with supportive services for occupancy by households who are experiencing homelessness as defined in Minnesota Rules Chapter 4900.3705.</p> <p>Applicants claiming points for providing homeless units will be requested to work with the Suburban Metro Area Continuum Homeless Coordinated Entry System and other alternative referral and prioritization processes for populations that have demonstrated need but are not included in the Coordinated Entry System, as is reasonable and feasible, to fill those units.</p> <p>Applicants must agree to pursue and continue renewal of rental assistance, operating subsidy or service funding contracts for as long as the funding is available.</p> <p>Applications that a set-aside 10% or more Tax Credit units for homeless household, must also commit the supportive services will be available on-site for homeless households. Contracts for supportive services must be in place prior to closing or Tax Credit Carryover allocation.</p> <p>Upon selection to receive Tax Credits the applicant must receive support in writing from the Dakota County Affordable Housing Coalition (AHC) prior to financing closing or the Tax Credit Carryover allocation.</p> <p><input type="checkbox"/> Set aside 5%- 9.99%, but no fewer than 2 Tax Credit units (5 points)</p> <p><input type="checkbox"/> Set aside 10% - 49.99%, but no fewer than 5 Tax Credit units (10 points)</p> <p><input type="checkbox"/> Set aside 50% or more, but no fewer than 20 Tax Credit units (15 points)</p> <p><b>4% Projects Only:</b></p> <p><input type="checkbox"/> Set aside no fewer than 2 Tax Credit units (5 points)</p>		

		<u>Developer Claimed</u>	<u>Agency Awarded</u>
<del>Rehabilitation Under</del> Community Revitalization <del>Plan</del> (5 Points)			
13.	<p><del>Points are awarded to projects for the rehabilitation of existing housing which is part of a community revitalization plan and that the project is contributing to the revitalization. — 5 points</del> <u>Community Development Initiative (5 points)</u></p> <p><u>Points are awarded to projects that contribute to the active implementation of a Community Development Initiative to address locally identified needs and priorities, with active engagement by local stakeholders. The initiative can be created by, and involve engagement from, a wide variety of public and private local community development partners such as cities, counties, employers, private foundations, public housing authorities, or other community stakeholders. The plan must contain more components than the project itself. Documentation must be provided that addresses the requirements of a Community Development Initiative as set forth in Exhibit I of the Procedural Manual.</u></p> <p><u>For projects located in a QCT, to be eligible for these points, the application must provide additional evidence that demonstrates a strategy for obtaining commitments of public and/or private investment in non-housing efforts to demonstrate that the project contributes to a concerted community revitalization plan.</u></p>		
Eventual Tenant Ownership (1 Point)			
14.	This point is awarded to projects that include a plan for eventual tenant ownership of 100% of the units. (1 point)		
Unacceptable Practices (Up to -50 Points)			
15.	Unacceptable Practices, includes the transfer of ownership of the owner and displacement of Section 8 tenants as described in Section IV.F of the Procedural Manual.		
Access to Transit (Up to 5 Points)			
16.	<p>Points are awarded to projects located within <u>walking distances</u> of public transit stations and stops. (up to 5 points)</p> <p><input type="checkbox"/> Project is located within ½ mile of Orange Line transitway stations (including the Burnsville Center station and all stations north) or Red Line transitway stations (including the Apple Valley Transit Station and all stations north) (5 points); <b>OR</b></p> <p><input type="checkbox"/> Project is located within ½ mile of a park and ride (with bus service), a bus route stop, or a Minnesota Valley Transit Authority (MVTA) bus route where the bus is able to stop (3 points).</p> <p>At the time of application, the applicant must submit a map identifying the location of the project with exact <u>walking distances</u> to the eligible public transit station/stop and include a copy of the route.</p>		

b.	<b>PREFERENCE PRIORITIES</b> <u>Points received through Preference Priorities will be included in the application's score and will be used to break ties in overall scoring for the competitive selection of applicants, as detailed in Section 8.2.</u>	<b>Developer Claimed</b>	<b>Agency Awarded</b>
1.	Previous Tax Credit Commitment/Reservation (30 points). Points are awarded to projects that have a prior commitment/reservation of Tax Credits, were not fully funded in a previous round, and require additional Tax Credits to make the project feasible.		
2.	Points are awarded to projects that will serve the lowest income tenants (50% or less of area median adjusted by unit size) with gross rents not to exceed 30% of income and agree to maintain the deeper rent structure for the duration of the Declaration. <i>(Up to 15 Points)</i>  Applicants may choose any combination of the following rent limitations for the project but may not count any unit more than once. This selection will restrict rents only (tenant incomes will not be restricted to the following levels by claiming points in this section).  Check the box that applies. <input type="checkbox"/> 100% of Tax Credit units at the rents for 50% of AMI: 15 points <input type="checkbox"/> 75% of Tax Credit units at the rents for 40% of AMI: 15 points <input type="checkbox"/> 75% of Tax Credit units at the rents for 50% of AMI: 10 points <input type="checkbox"/> 50% of Tax Credit units at the rents for 40% of AMI: 10 points <input type="checkbox"/> 50% of Tax Credit units at the rents for 50% of AMI: 5 points		
3.	<u>Geographic Balance (5 points).</u> <u>Points are awarded to projects for proposed projects that are located in a city that have not received a 9% or 4% Tax Credit award from Dakota County CDA or Minnesota Housing for new affordable housing development in the last 3 years.</u> <del>Points will be awarded to projects located in a Qualified Census Tract that are part of a concerted plan which provides for community revitalization consistent with the definition described as a Community Development Initiative. (5 Points)</del>		

<b>TOTAL POINTS:</b>	<b>Developer Claimed</b>	<b>Agency Awarded</b>
	_____	_____

**SELF-SCORING WORKSHEET CERTIFICATION:**

Under penalty of perjury, the Applicant hereby certifies the information provided in the Self-Scoring Worksheet is true and accurate.

By: \_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Print or type name and title of signatory*

Of: \_\_\_\_\_  
*Name of Managing/General Partner*

Date: \_\_\_\_\_



# Board of Commissioners

## Request for Board Action

Meeting Date: March 27, 2024

Agenda #: 6B

**DEPARTMENT:** Housing Development

**FILE TYPE:** Regular - Action

### TITLE

**Authorize The Executive Director to Execute A Construction Contract As General Partner Of The Denmark Trail Workforce Housing Limited Partnership (Denmark Trail Townhomes, Farmington)**

### PURPOSE/ACTION REQUESTED

- Authorize Executive Director to execute a construction contract as General Partner of the Denmark Trail Workforce Housing Limited Partnership.
- Authorize change order authority.

### SUMMARY

On March 7, 2024, at 10 a.m. a formal bid opening was conducted for Denmark Trail townhome development on behalf of the Denmark Trail Workforce Housing Limited Partnership at the Dakota County Community Development Agency office. This is a 40-unit development that will be built in Farmington.

A number of contractors picked up plans; bids were received from five general contractors (see Attachment A: Bid Tabulation). Ebert Inc., dba Ebert Companies submitted the low bid of \$11,062,500 when Alternates 2, 3, 4, 5, and 6 are accepted. Alternate 2 is an add for LP SmartSide siding package with a Diamond Kote finish, Alternate 3 is an add for luxury vinyl tile plank flooring, Alternate 4 is an add for a ceiling fan in the living room, Alternate 5 is an add for ceiling fans with light kits in the bedrooms, and Alternate 6 is an add to provide 16 SEER minimum air-cooled condensing units in lieu of 14 SEER minimum. After conferring with the Dakota County Attorney's Office, it was determined that the CDA should accept the bid from Ebert Companies which is the lowest responsive bid.

The pre-bid estimate for the cost of construction was \$11,400,000, and the Ebert Companies bid with the recommended alternates is \$11,062,500; this is \$276,562.50 per unit.

### RECOMMENDATION

Staff recommends that Alternate 2 (adding LP SmartSide siding with Diamond Kote finish), Alternate 3 (luxury vinyl tile plank flooring), Alternate 4 (adding a ceiling fan in living room), Alternate 5 (provide ceiling fans with light kits in bedrooms) and Alternate 6 (provide 16 SEER min. air cooled condensing units) be included in the contract.

Staff further recommends that the CDA Board authorize the Executive Director to enter into a construction contract with Ebert Companies in the amount of \$11,062,500. It is also being recommended that the Executive Director be authorized to sign Change Orders in an amount not to exceed \$553,125 (5% of the contract amount).

**EXPLANATION OF FISCAL/FTE IMPACTS**

This project is being funded with proceeds from Low Income Housing Tax Credits and other previously approved CDA gap financing resources. The tax credits will be sold to U.S. Bancorp Community Development Corporation as part of a limited partnership arrangement.

None     Current budget     Other     Amendment Requested     New FTE(s) requested

**RESOLUTION**

WHEREAS, formal bids were received on March 7, 2024 for the construction of Denmark Trail townhome development on behalf of Denmark Trail Workforce Housing Limited Partnership; and

WHEREAS, Ebert Companies is the low responsive and responsible bidder; and

WHEREAS, references have been checked for Ebert Companies and the staff assigned to the Denmark Trail construction project; and

WHEREAS, the additional costs incurred for bid alternates must be balanced against the potential benefits to residents of the project and the most effective use of public funds; and

WHEREAS, the bid submitted by Ebert Companies, including alternates 2, 3, 4, 5, and 6, is \$11,062,500, which is \$337,500 less than the pre-bid construction cost estimate; and

WHEREAS, the Dakota County CDA as General Partner of the Denmark Trail Workforce Housing Limited Partnership is anticipating closing on the financing later in May 2024; and

WHEREAS, dependent on weather, staff may request an early start to allow for construction to begin prior to closing on the financing for Denmark Trail.

NOW, THEREFORE BE IT RESOLVED by the Dakota County Community Development Agency Board of Commissioners, That the Executive Director be authorized to sign a construction contract on behalf of the Denmark Trail Workforce Housing Limited Partnership with Ebert Companies in an amount of \$11,062,500 (includes Alternates 2, 3, 4, 5, and 6); with all other bid alternates being rejected and excluded from the contract; and

BE IT FURTHER RESOLVED That the Executive Director on behalf of the Denmark Trail Workforce Housing Limited Partnership be authorized to approve change orders in an amount not to exceed \$553,125 (5% of the contract amount).

**PREVIOUS BOARD ACTION**

None.

**ATTACHMENTS**

Attachment A: Bid Tabulation  
Attachment B: Affidavit of Publication

**BOARD GOALS**

Focused Housing Programs                       Collaboration  
 Development/Redevelopment                       Financial Sustainability                       Operational Effectiveness

**CONTACT**

Department Head: Kari Gill, Deputy Executive Director

Author: Lori Zierden, Real Estate Manager



**BID TAB**

Project Title: Denmark Trail  
Dakota County CDA

Bid Close: Thursday March 7, 2024 at 10:00 AM CST

BIDDER	ADD'A	BID BOND	VER. OF COMP.	BASE BID	ALT. #1	ALT. #2	ALT. #3	ALT. #4	ALT. #5	ALT. #6	ALT. #7	ALT. #8	UNIT PRICE #1	UNIT PRICE #2	UNIT PRICE #3	UNIT PRICE #4
					Hardie	Diamond Kote	Vinyl Plank	LR Ceiling Fan	BR Ceiling Fan w/ light	16 SEER A/C	Hotpoint Refrigerator	Jeld-Wen Doors				
Ebert Inc, dba Ebert Companies	X	X	X	\$10,988,000	N/C	\$23,500	N/C	\$17,000	\$18,000	\$16,000	(\$1,500)	No Bid	\$8.40	\$18.90	\$36.75	\$10.50
CBS Construction Servies, Inc.	X	X	X	\$11,467,000	N/C	\$25,000	(\$30,000)	\$17,000	\$20,000	\$23,000	\$665 ea	(\$12,000)	\$18.00	\$24.00	\$38.00	\$50.00
Rochon Corporation	X	X	X	\$11,248,000	\$0	\$10,000	(\$15,000)	\$16,000	\$17,500	\$16,000	(\$3,500)	(\$126,500)	\$28.00	\$29.00	\$34.00	\$20.00
Project One Construction, Inc.	X	X	X	\$11,849,000	\$84,500	\$96,700	N/C	\$18,900	\$19,700	\$17,900	Nothing noted	Nothing noted	\$18.00	\$17.00	\$39,00	\$36.00
Midwest Star Construction LLC		X		\$19,220,000	Nothing noted	Nothing noted	Nothing noted	Nothing noted	Nothing noted	Nothing noted	Nothing noted	Nothing noted	Nothing noted	Nothing noted	Nothing noted	Nothing noted



# AFFIDAVIT OF PUBLICATION

STATE OF MINNESOTA ) ss  
COUNTY OF DAKOTA

Rhonda Herberg being duly sworn on an oath, states or affirms that he/she is the Publisher's Designated Agent of the newspaper(s) known as:

Dakota County Tribune

with the known office of issue being located in the county of:

DAKOTA


with additional circulation in the counties of:

DAKOTA

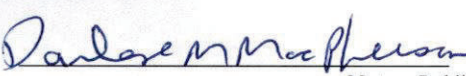
and has full knowledge of the facts stated below:

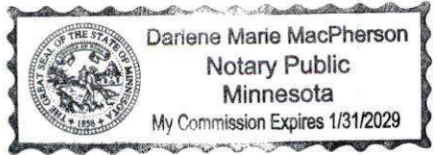
- (A) The newspaper has complied with all of the requirements constituting qualification as a qualified newspaper as provided by Minn. Stat. §331A.02.
- (B) This Public Notice was printed and published in said newspaper(s) once each week, for 2 successive week(s); the first insertion being on 02/16/2024 and the last insertion being on 02/23/2024.

**MORTGAGE FORECLOSURE NOTICES Pursuant to Minnesota Stat. §580.033** relating to the publication of mortgage foreclosure notices: The newspaper complies with the conditions described in §580.033, subd. 1, clause (1) or (2). If the newspaper's known office of issue is located in a county adjoining the county where the mortgaged premises or some part of the mortgaged premises described in the notice are located, a substantial portion of the newspaper's circulation is in the latter county.

By:   
Designated Agent

Subscribed and sworn to or affirmed before me on 02/23/2024 by Rhonda Herberg.

  
Notary Public



Rate Information:  
(1) Lowest classified rate paid by commercial users for comparable space:  
\$999.99 per column inch

Ad ID 1374319

**DAKOTA COUNTY CDA  
PUBLIC NOTICE  
ADVERTISEMENT FOR BIDS—**

The Dakota County Community Development Agency (CDA) invites prospective Bidders to submit bids for the construction of a 40-unit townhome development in Farmington, Minnesota. Single bids will be received for the total bid package. Sealed bids will be received at the CDA until **10:00 AM CST on Thursday, March 7, 2024**. Bids received after this date and hour will be returned unopened. No telephone, email or fax bids will be accepted. Bids will be opened publicly and read aloud. Bids shall be addressed to: **Nick Sisterman, Dakota County CDA, 1228 Town Centre Drive, Eagan, Minnesota 55123**.

Bidding Documents will be available on or about **Friday, February 16, 2024**. Bid Documents are available electronically on-line at [www.questcdn.com](http://www.questcdn.com) (QuestCDN #8968592). There is a download fee of \$22.00. Alternatively, Bidding Documents can be viewed at local plan rooms listed on the bid register of the Quest CDN website. Plan Holders list is available at [www.questcdn.com](http://www.questcdn.com).

A certified check, cashier's check or corporate surety bond in an amount equal to five (5%) percent of the base bid shall accompany each bid. The bid security shall be made payable to the Dakota County Community Development Agency. The bidder who is awarded the contract will be required to furnish a Performance Bond and a Labor and Material Payment Bond. The cost of all bonds shall be included in the Bid. The Contractor must be a responsible bidder as defined in the bid documents.

The CDA may select any combination of alternates at its own discretion. The CDA reserves the right to reject any and all bids received and to waive informalities and irregularities in the bidding.

Published in the  
Dakota County Tribune  
February 16, 23, 2024  
1374319