Dakota County CDA
Board of Commissioners

Agenda

Meeting Date: October 27, 2026 | 3:00 PM | CDA Boardroom, Eagan, MN

1. Call To Order And Roll Call

2. Audience

Anyone wishing to address the County Board on an item not on the agenda, or an item on the consent agenda may notify the Clerk to the Board and instructions will be given to participate during the meeting. Comments can be sent to sjacobson@dakotacda.org. Verbal Comments are limited to five minutes.

3. Approval Of Agenda And Meeting Minutes

A. Approval Of Meeting Minutes – September 22, 2026 Regular Meeting 3

4. Federal Public Housing And Housing Choice Voucher

Consent Agenda

A. Approval Of Amendments To The Housing Assistance Department Administrative Plan 17

B. Approval Of Amendments To The Public Housing Admissions And Continued Occupancy Policy 160

5. Consent Agenda

A. Approval Of Record Of Disbursements – September 2026 680

B. Award Service Contract To Jetter Clean For Routine Preventative Inspection And Cleaning Of Sewer Lines At CDA Properties 682

C. Award Of Cleaning Contract To Brothers Manufacturing For Routine Cleaning Of Units 687

D. Award Contract For Access Control Replacement At Lakeside Pointe (Eagan) And Parkview Plaza (Mendota Heights) Senior Housing Developments 692

E. Approval Of 1.0 FTE Budget Authority To Hire A Property Management Systems Administrator For The Property Management Department 697

6. Regular Agenda

A. Continue Public Hearing On The Disposition Of A DCCDA Section 18, LLC Property 699

B. Public Hearing Regarding Designation Of Property In Apple Valley – CANCELLED

C. Commitment Of The Dakota County CDA's 2027 9% Low Income Housing Tax Credits 701

D. Establish Public Hearing Date Regarding A Housing Finance Program And Issuance Of Housing Development Bonds Back By Full Faith And Credit Of Dakota County Pursuant To Minnesota Statues, Section 469.034, Subd. 2 707

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

Next Meeting
November 17, 2026
CDA Board of Commissioners Regular Meeting – 3 p.m.
Dakota County CDA Boardroom, 1228 Town Centre Drive, Eagan, MN 55123

Board of Commissioners

Meeting Minutes

Meeting Date: September 22, 2026 | 3:00 PM | Boardroom; CDA Office, Eagan, MN

Commissioner Atkins called the meeting to order at 3:01 p.m.

COMMISSIONER ROLL CALL

	Present	Absent
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 & Communications
Sarah Jacobson, Administrative Coordinator
Maggie Dykes, Assistant Director of Community & Economic Development
Kathy Kugel, Housing Finance Manager
Lisa Hohenstein, Director of Housing Assistance
Anna Judge, Director of Property Management

Others in attendance:
Brian Wisdorf, Dakota County
Erin Stwora, Dakota County
Emily Schug, Dakota County
Natalie Mouilso, MCCD
Kristie Rice, Janken Housing Solutions

AUDIENCE

No audience members addressed the Board.

APPROVAL OF AGENDA AND MEETING MINUTES

26-7139 **Approval Of Agenda And Meeting Minutes**

BE IT RESOLVED by the Dakota County Community Development Agency Board of Commissioners, that the agenda for the September 22, 2206 Regular 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 August 18, 2026 Regular Board meeting be approved as written.

Motion: Commissioner Hamann-Roland Second: Commissioner Droste

Ayes: 8 Nays: 0 Abstentions: 0

	Yes	No	Absent	Abstain
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

Consent Agenda

26-7140 **Approval Of The 2027 Utility Allowance Schedule For The Public Housing Program**

WHEREAS, the Dakota County CDA administers the federal Public Housing Program; and

WHEREAS, the U.S. Department of Housing and Urban Development (HUS) requires all housing authorities to review and revise, as necessary, allowances for resident paid utilities in Public Housing properties on an annual basis; and

WHEREAS, the Dakota County CDA has contracted with The Nelrod Company to conduct a review of utility allowances and make recommendations based on an engineering method.

NOW, THEREFORE, BE IT RESOLVED by the Dakota County Community Development Agency Board of Commissioners, That the updated Utility Allowance Schedule in Attachment A is approved effective January 1, 2027 for the Public Housing Program.

26-7141 **Approval To Use Unrestricted Net Position For Housing Choice Voucher Program Shortall**

WHEREAS, the Housing Choice Voucher Program funded by the U.S. Department of Housing and Urban Development (HUD) is projected to be in a shortfall for 2026; and

WHEREAS, HUD prohibits voucher issuance when an agency is in shortfall status which would impact the number of households the CDA is able to serve and will affect future funding renewals; and

WHEREAS, the CDA holds $5.6 million in unrestricted net position (administrative reserves) with HUD; and

WHEREAS, HUD has authorized the CDA to use a portion of the unrestricted net position to cover shortfall with Board approval which will allow the CDA to continue to serve as many households as possible.

NOW, THEREFORE, BE IT RESOLVED by the Dakota County Community Development Agency Board of Commissioners, That up to $2 million in unrestricted net position may be used for the Housing Choice Voucher program shortfall; and

BE IT FURTHER RESOLVED that the Housing Choice Voucher budget be amended to include the shortfall funding.

Motion: Commissioner Velikolangara **Second: Commissioner Halverson**

Ayes: 8 Nays: 0 Abstentions: 0

	Yes	No	Absent	Abstain
Slavik	X			
Atkins	X			
Halverson	S			
Droste	X			
Workman	X			
Holberg	X			
Hamann-Roland	X			
Velikolangara	X			

CONSENT AGENDA

26-7142 **Approval Of Record Of Disbursements – August 2026**

BE IT RESOLVED by the Dakota County Community Development Agency Board of commissioners, That the August 2026 Record of Disbursements is approved as written.

26-7143 **Approval Of 2027 Medical, Dental And Vision Plans, Rates And Contributions**

WHEREAS, the CDA has a history of obtaining its medical, dental and vision insurance plans through Dakota County and wishes to continue to do so in an effort to provide quality medical, dental and vision insurance coverage to the eligible CDA employees and their families; and

WHEREAS, the three medical plans offered through Blue Cross Blue Shield, will assume an 11% increase for Dakota Advantage, 7.25% increase for Dakota Select, and 5.25% increase for Dakota HSA; and

WHEREAS, due to 2027 IRS limit changes in minimum deductibles for High Deductible Health Plans, the Dakota HSA plan will have an increase in deductible $1.750 for single and $3,500 for family; and

WHEREAS, this change will increase the CDA's annual HSA contribution to $875 for single, and $1,750 for family enrollment; and

WHEREAS, Delta Dental of Minnesota will be the new dental insurance provider for both the Comprehensive and Preventative Dental Plans; and

WHEREAS, the CDA's contributions towards premiums for medical and dental are outlined in Attachment A; and

WHEREAS, VSP Vision Care will continue to be the vision insurance provider with the same rates as 2026 which will be assumed by employees electing vision coverage.

NOW, THEREFORE, BE IT RESOLVED by the Dakota County Community Development Agency Board of Commissioners, That the 2027 medical, dental and vision plans provided by Blue Cross Blue Shield, Delta Dental of Minnesota and VSP Vision Care are approved for implementation effective January 1, 2027.

26-7144 **Authorization To Execute Contract With The Hartford For Short-Term Disability, Long-Term Disability And Life Insurance And Approval Of Rates And Contributions**

WHEREAS, the CDA issued a Request for Proposals on July 24, 2026 for short-term disability, long-term disability and life insurance; and

WHEREAS, staff is recommending The Hartford as the vendor for these benefits; and

WHEREAS, The Hartford proposal improves life and disability benefits through higher coverage amounts, fewer age-related restrictions, stronger income protection, and easier access to coverage; and

WHEREAS, transition from Lincoln Financial Group to The Hartford will generate approximately $81,000 in annual savings for the CDA.

NOW, THEREFORE, BE IT RESOLVED by the Dakota County Community Development Agency Board of Commissioners, That the Executive Director is authorized to execute a three-year contract with The Hartford for short-term disability, long-term disability and life insurance plans; and

BE IT FURTHER RESOLVED, That the rates and contributions are approved.

26-7145 **Authorization To Accept Payment And Sign Easement Agreement With Great River Energy To Reconstruct The Electric Transmission Line Located On CDA Property In Eagan**

WHEREAS, Great River Energy (“Project Grantee”) has requested a perpetual and irrevocable Easement (“Easement”) on CDA-owned property located in Eagan; and

WHEREAS, the Easement is needed to allow Grantee to reconstruct the electric transmission line (“Project”) located on CDA-owned property; and

WHEREAS, the Project will facilitate the construction, operation, and maintenance of a safe, reliable electric system, together with the use of optical fiber for communication, broadband, data, and information purposes; and

WHEREAS, the Grantee shall promptly restore the Easement Area to the condition that is safe, stable, and free from hazards.

NOW, THEREFORE, BE IT RESOLVED by the Dakota County Community Development Agency Board of Commissioners, That the Executive Director is authorized to accept the $18,694.62 payment for the Easement Area and for the removal of existing trees; and

BE IT FURTHER RESOLVED, That the Executive Director is authorized to sign the Easement Compensation Settlement Letter and Easement Agreement, subject to Dakota County Attorney’s review.

26-7146 **Recognition Of CDA Held Neighborhood Stabilization Rental Properties Meeting Program Requirements**

WHEREAS, the U.S. Housing and Urban Development (HUD) Neighborhood Stabilization Program (NSP) was created in 2008 to assist states and local governments in addressing the effects of abandoned and foreclosed properties; and

WHEREAS, the Dakota County CDA received $2,765,991 of HUD NSP 1 grant funds; and

WHEREAS, the CDA purchased the foreclosed properties located at 14349, 14351, 14353 and 14355 Hayes road in Apple Valley (Hayes 4-Plex) in April 2010 and 17150 Hemlock Court in Lakeville (Hemlock Court) in November 2009 with HUD NSP 1 funds; and

WHEREAS, the CDA completed rehabilitation of the Hayes 4-Plex and Hemlock court properties to be rented to households with incomes at or below 50 percent of area median income, per the NSP Agreement with HUD dated January 30, 2009; and

WHEREAS, NSP requires the rental properties to remain affordable to the target income group for a minimum of 15 years; and

WHEREAS, the Hemlock court and the Hayes 4-Plex properties successfully completed their 15 years of NSP affordability respectively from August 31, 2025 through March 17, 2026; and

WHEREAS, CDA staff will ensure all post-close out HUD requirements are met related to HUD NSP 1 grant funds, including but not limited to records retention (24 CFR 570.506, 42 US 12707(a)(4) and change of use (24 CFR 570.505(a)).

NOW, THEREFORE, BE IT RESOLVED by the Dakota County Community Development Agency Board of Commissioners, That the Community Development Agency has met the Neighborhood Stabilization Program (NSP) regulations and requirements for the HUD NSP 1 funded rental units acquired, rehabilitated, and operated by the CDA.

26-7147 **Approval Of Contingent Redevelopment Incentive Grant Award For The City Of South St. Paul**

WHEREAS, the Dakota County Community Development Agency (CDA) established a Redevelopment Incentive Grant (RIG) program in 2007 to assist Dakota County cities with the redevelopment of blighted and underutilized areas; and

WHEREAS, to date, the RIG program has awarded over $16 million to 76 redevelopment projects, 30 planning activities, and 12 environmental investigation activities; and

WHEREAS, the total awards, $2,797,419 has been awarded to the City of South St. Paul (the “City”) or developers operating in the city; and

WHEREAS, the CDA has $500,000 of available funds in its Fiscal Year Ending 2027 budget and Dakota County, through its Environmental Resources Department, has an additional $325,000 of remaining available funds for RIG projects that require environmental investigation and/or remediation; and

WHEREAS, Dakota County cities can apply to receive up to $250,000 per redevelopment project grant (one per local government) per fiscal year; and

WHEREAS, the City of South St. Paul (the City) submitted an application on July 9, 2026, requesting $250,000 for the redevelopment of a 4.25-acre site at 316 Malden Street; and

WHEREAS, the City’s application meets the eligibility criteria to receive full funding as listed in the RIG Program Policy and Procedures Guide.

NOW, THEREFORE, BE IT RESOLVED by the Dakota County Community Development Agency Board of Commissioners, That the City of South St. Paul is awarded a Redevelopment Incentive Grant of up to $250,000 for the project described in the application contingent upon the grantee meeting program guidelines and entering into a grant agreement with the CDA, in form and content acceptable to the Executive Director of the CDA.

26-7148 **Authorization To Execute Compliance Monitoring Contracts For The Low Income Housing Tax Credit Program**

WHEREAS, the Dakota County Community Development Agency (CDA) issued a Request for Proposals seeking the services of qualified contractors for the Low Income Housing Tax Credit Program (LIHTC Program) compliance monitoring; and

WHEREAS, one proposal was received by the proposal submission deadline for LIHTC Program compliance monitoring; and

WHEREAS, CDA Staff reviewed and evaluated the proposal thoroughly and based on experience and qualifications, work plan and reasonableness of costs is recommending Janken Housing Solutions be awarded the service contract for LIHTC Program compliance monitoring for the next three years.

NOW, THEREFORE, BE IT RESOLVED by the Dakota County Community Development Agency Board of Commissioners, That the Executive Director is authorized to execute a contract with Janken Housing Solutions for LIHTC Program compliance monitoring services.

26-7149 **Authorization To Execute Compliance Monitoring Contract For The HOME Investment Partnership Program**

WHEREAS, the Dakota County Community Development Agency (CDA) issued a Request for Proposals seeking the services of qualified contractors for the HOME Investment Partnership Program (HOME Program) compliance monitoring services; and

WHEREAS, one proposal was received by the proposal submission deadline for HOME Program monitoring services; and

WHEREAS, CDA staff reviewed and evaluated the proposal thoroughly and based on experience and qualifications, work plan and reasonableness of costs is recommending Janken Housing Solutions be awarded the service contract for the HOME Program compliance monitoring for the next three years.

NOW, THEREFORE, BE IT RESOLVED by the Dakota County Community Development Agency Board of Commissioners, That the Executive Director is authorized to execute a contract with Janken Housing Solutions for HOME Program compliance monitoring services.

26-7150 **Award Contracts For Lawn, Snow And Irrigation Services At CDA Properties**

WHEREAS, the current contracts for lawn, snow and irrigation services for CDA properties are expiring on October 31, 2026; and

WHEREAS, a solicitation for bids for these services was developed in conformance to public bidding requirements requesting pricing for six geographical zones; and

WHEREAS, formal bids were received on September 1, 2026 from four companies; and

WHEREAS, Lakeshore Landscaping was the low bidder for five zones and Total Turf Maintenance was the low bidder for one zone; and

WHEREAS, both companies have performed work for the CDA in the past and have been reliable and responsive contractors.

NOW, THEREFORE, BE IT RESOLVED by the Dakota County Community Development Agency Board of Commissioners, That the three-year lawn, snow and irrigation service contracts for CDA properties be awarded to Lakeshore Landscaping (Zones 1, 2, 4, 5 and 6) and Total Turf Maintenance (Zone 3).

26-7151 **Award Contract For Trash And Recycling Services At CDA Properties To Republic Services**

WHEREAS, the current contract for trash and recycling services for CDA properties is expiring on October 31, 2026; and

WHEREAS, a solicitation for bids for these services was developed in conformance to public bidding requirements requesting pricing; and

WHEREAS, formal bids were received on August 21, 2026 from three companies; and

WHEREAS, Republic Services is the low responsive bidder; and

WHEREAS, the company has performed work for the CDA in the past and has been reliable and responsive.

NOW, THEREFORE, BE IT RESOLVED by the Dakota County Community Development Agency Board of Commissioners, That the three-year trash and recycling service contract for CDA properties be awarded to Republic Services.

Motion: Commissioner Hamann-Roland **Second: Commissioner Slavik**

Ayes: 7 Nays: 0 Abstentions: 0

	Yes	No	Absent	Abstain
Slavik	X			
Atkins	X			
Halverson	X			
Droste	X			
Workman	X			
Holberg	X			
Hamann-Roland	X			

REGULAR AGENDA

26-7152 **Open And Continue Public Hearing On The Disposition Of A DCCDA Section 18, LLC Property**

Tony Schertler presented information and answered questions.

WHEREAS, the Dakota County CDA is able to dispose of property after holding a public hearing for which a notice is published; and

WHEREAS, a notice of the public hearing was published in the Dakota County Tribune per Minnesota Statute Sec. 469.105; and

WHEREAS, the property proposed for sale is part of the DCCDA Section 18, LLC that was created for the transition of public housing units through the U.S. Housing and Urban Development's Section 18 Demo/Dispo program; and

WHEREAS, the public hearing is being continued and the property will continue to be marketed and offers solicited; and

WHEREAS, the U.S. Department of Housing and Urban Development's Special Applications Center has approved the disposition of the Section 18 units on the open market through public bid; and

NOW, THEREFORE, BE IT RESOLVED by the Dakota County Community Development Agency Board of Commissioners, That the public hearing is opened and continued to the October 27, 2026 CDA Board meeting.

Motion: Commissioner Halverson **Second: Commissioner Slavik**

Ayes: 7 Nays: 0 Abstentions: 0

	Yes	No	Absent	Abstain
Slavik	X			
Atkins	X			
Halverson	X			
Droste	X			
Workman	X			
Holberg	X			
Hamann-Roland	X			

26-7153 **Authorization To Execute Letter Of Intent For Acquisition Of Property At 15290 Pennock Lane In Apple Valley And Establish Public Hearing Date Regarding Designation Of The Property**

Maggie Dykes presented information and answered questions.

WHEREAS, the property owner of 15290 Pennock Lane in Apple Valley has indicated an interest in selling their property to the Dakota County Community Development Agency; and

WHEREAS, the property is occupied by a vacant 30,888 sq. ft. health clinic; and

WHEREAS, the property is currently guided Commercial in the City of Apple Valley's Comprehensive Plan and zoned Retail Business; and

WHEREAS, the CDA is interested in developing the site for a senior apartment building which will require the demolition of the existing building, a change to the Comprehensive Plan designation, and rezoning the site to allow for a senior affordable apartment building; and

WHEREAS, there are available bunds for the proposed acquisition, demolition, due diligence-related activities, taxes, closing, and related costs from Tax Increment Financing District No. 11 pooled funds in Apple Valley; and

WHEREAS, pursuant to Minnesota Laws 2008, Chapter 366, Article 5, Section 35 the Dakota County Community Development Agency is authorized to designate additional property to be acquired with tax increment after holding a public hearing for which notice is published; and

WHEREAS, notice of the public hearing must be published ina newspaper of general circulation in the municipality in which the property is located not less than ten days nor more than 30 days prior to the date of the public hearing; and

WHEREAS, the published notice must include a map depicting the property and the general area of the municipality within which the property is located.

NOW, THEREFORE, BE IT RESOLVED by the Dakota County Community Development Agency Board of commissioners, That the Executive Director is authorized to sign the Letter of Intent for the property at 15290 Pennock Lane (PID #011178301010) in Apple Valley, subject to Dakota County Attorney's office review; and

BE IT FURTHER RESOLVED, That a public hearing regarding the designation of additional property to be acquired by the CDA with tax increment financing for the development of a housing project in the City of Apple Valley, Minnesota will be held by the Dakota County Community Development Agency Board on October 27, 2026, at or after 3 p.m. at the CDA's main office; and

BE IT FURTHER RESOLVED, That the Executive Director or his designee is hereby authorized and directed to cause notice of such public hearing in substantially the form attached hereto to be published in a newspaper of general circulation in Apple Valley not less than 10 days nor more than 30 days prior to such hearing.

Motion: Commissioner Hamann-Roland Second: Commissioner Halverson

Ayes: 7 Nays: 0 Abstentions: 0

	Yes	No	Absent	Abstain
Slavik	X			
Atkins	X			
Halverson	X			
Droste	X			
Workman	X			
Holberg	X			
Hamann-Roland	X			

26-7154 **Approval Of Three-Year Participation Agreement For Open To Business**
Natalie Mouilso from MCCD presented information and answered questions.

WHEREAS, the Dakota County Community Development Agency (CDA) was granted the powers of an economic development authority in 2000 by Minnesota Law and an authorizing resolution adopted by the Dakota County Board of Commissioners (Resolution No. 00-543); and

WHEREAS, the CDA and 11 cities have annually renewed participation in the Open To Business program since 2013, with the CDA acting as the fiduciary agent and administrator of the contract with Metropolitan Consortium of Community Developers and joint powers agreements executed between each participating city and the CDA; and

WHEREAS, the annual cost for the Open To Business program for 2027 is $170,000, $175,000 in 2028, and $180,000 in 2029; and

WHEREAS, the CDA portion of the annual cost of the program is fifty percent (50%) to match each participating city, in addition to the total cost of serving the small cities and townships; and

WHEREAS, the Open To Business program is consistent with the Economic Development Strategy and Guiding Principles adopted by the Dakota County CDA Board of Commissioners, in that it results from a collaborative approach; it is a response to a need for specialized expertise and economies of scale; it serves a need that is located in more than one community; and it is non-duplicative of other services.

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

1. Approve CDA participation in Open To Business program for 2027, 2028, and 2029 subject to participation of the Dakota County cities.
2. Authorizes the Executive Director to execute a three-year contract with the Metropolitan Consortium of Community Developers for an amount not to exceed $170,000 in 2027, $175,000 in 2028, and $180,000 in 2029.
3. Authorizes the Executive Director to execute a joint powers agreement between the CDA and the participating cities, designating the CDA as fiscal agent for the contract with the Metropolitan Consortium of Community Developers and requiring each city to submit a participation fee to the CDA.

Motion: Commissioner Hamann-Roland Second: Commissioner Droste

Ayes: 7 Nays: 0 Abstentions: 0

	Yes	No	Absent	Abstain
Slavik	X			
Atkins	X			
Halverson	X			

Droste	X
Workman	X
Holberg	X
Hamann-Roland	X

26-7155 **Authorize The Levy Of A Special Benefit Tax Pursuant To Minnesota Statutes 469.033, Subd. 6 And 383D.41**

Tony Schertler provided information and answered questions.

WHEREAS, the Dakota County Community Development Agency (CDA) is organized and existing under Minnesota Statutes, Section 383D.41, as amended (Enabling Act); and

WHEREAS, pursuant to the Enabling Act, the CDA has all the powers and duties of a housing and redevelopment authority under the provisions of the Municipal Housing and Redevelopment Act, Minnesota Statutes, Sections 469.001 to 469.047 (HRA Act), those powers of an Economic Development Authority under Minnesota Statutes, Sections 469.090 to 469.1081 (EDA Act) expressly granted by the Dakota County Board, and the authority to levy the special benefit tax with the approval of the Dakota County Board as permitted under the HRA Act at such higher limits as may be permitted under either the HRA Act or the EDA Act; and

WHEREAS, pursuant to the Enabling Act, for the purpose of applying the provisions of the HRA Act to the CDA, Dakota County is deemed to have all powers and duties of a municipality under the HRA Act and the Board of Commissioners of the county is deemed to have all powers and duties of a governing board of a municipality under the HRA Act; and

WHEREAS, by Resolution 94-926 (December 6, 1994), the Dakota County Board authorized the CDA to levy and collect the Special Benefit Tax Levy authorized by the HRA Act, which at that time was 0.0144 percent levy limit, without subsequent annual approval of the County; and

WHEREAS, the CDA has subsequently requested approval by the county Board for any levy request above the 0.0144 percent of estimated market value; and

WHEREAS, the current levy limit under Minnesota Statute authority is 0.0185 percent of the Estimated Market Value (EMV); and

WHEREAS, the CDA is required pursuant to Section 469.033, Subdivision 6, of the HRA Act to formulate and file a budget with the County, and the amount of the Special Benefit Tax levy for the following year shall be based on that budget; and

WHEREAS, the CDA Board has reviewed and discussed the initial budget for use in the 2027 levy proceeds, based on the Special Benefit Tax of EMV, for the payment of debt service for the CDA Common Bond Fund and other CDA initiatives.

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

Section 1. The 2027 levy budget of $12,252,495 of the CDA is hereby approved.

Section 2. CDA Staff are hereby authorized to forward the levy budget to the county as required by Section 469.033, Subdivision 6 of the HRA Act and to request approval by the County of $942,499 of additional levy allocable to the difference between 0.0144 percent and 0.0156 percent of EMV.

Section 3. Pursuant to Minnesota Statute, Section 469.033, Subdivision 6, a Special Benefit Tax in the amount of 0.0156 percent of the estimated market value of $12,252,495.

Motion: Commissioner Slavik **Second: Commissioner Hamann-Roland**

Ayes: 7 Nays: 0 Abstentions: 0

	Yes	No	Absent	Abstain
Slavik	X			
Atkins	X			
Halverson	X			
Droste	X			
Workman	X			
Holberg	X			
Hamann-Roland	X			

INFO **Executive Director Update**
Tony Schertler provided updates.

INFO **Information**

26-7156 **Adjournment**
BE IT RESOLVED, that the Dakota County Community Development Agency Board of Commissioners, hereby adjourns until Tuesday, October 27, 2026.

Motion: Commissioner Hamann-Roland **Second: Commissioner Droste**

Ayes: 8 Nays: 0 Abstentions: 0

	Yes	No	Absent	Abstain
Slavik	X			
Atkins	X			
Halverson	X			
Droste	X			
Workman	X			
Holberg	X			
Hamann-Roland	X			

Velikolangara	X

The CDA Board meeting adjourned at 3:42 p.m.

_____

Clerk to the Board

Dakota County CDA

Board of Commissioners

Request for Board Action

Meeting Date: October 27, 2026 Agenda #: 4A

DEPARTMENT: Housing Assistance
FILE TYPE: Federal - Consent

TITLE
Approval Of Amendments To The Housing Assistance Department Administrative Plan

PURPOSE/ACTION REQUESTED
Approve amendments to the Housing Assistance Department Administrative Plan.

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.

The Dakota County CDA is incorporating policies that have been updated by HUD.

RECOMMENDATION
Staff recommends approval of the amendment to the Housing Assistance Department Administrative Plan.

EXPLANATION OF FISCAL/FTE IMPACTS
None

☒ None ☐ Current budget ☐ Amendment Requested ☐ Other

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 Plan to update policies for the administration of the Housing Choice Voucher rental assistance program.

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

PREVIOUS BOARD ACTION
26-7094; 4/21/2026

ATTACHMENTS
Attachment A: Housing Assistance Department Administrative Plan

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

Dakota County
Community Development
Agency
CDA

HOUSING ASSISTANCE DEPARTMENT

ADMINISTRATIVE PLANS

Submitted to HUD: December 20, 2010
Amendments Approved by the CDA Board of Commissioners: ~~April 21, 2026~~October 27, 2026

HOUSING CHOICE VOUCHER

INTRODUCTION

ABOUT THE DAKOTA COUNTY CDA ADMINISTRATIVE PLANS

RERFERENCE CITED IN THE ADMINISTRATIVE PLAN

The authority for CDA policies is derived from many sources. Primary among these sources are federal statutes, federal regulations and guidance issued by HUD. State law also directs CDA policy. State law must be followed where such law exists and does not conflict with federal regulations. Industry practice may also be used to develop policy if it does not conflict with federal requirements or prohibitions.

HUD

HUD provides the primary source of CDA policy through federal regulations, HUD notices, and handbooks. Compliance with federal regulations, current HUD notices, and current HUD handbooks is mandatory.

HUD also provides guidance to the CDA through other means such as HUD-published guidebooks, expired HUD notices, and expired handbooks. Basing CDA policy on HUD guidance is optional, if CDA policies comply with federal law, federal regulations, ~~and~~ mandatory policy, and such HUD guidance has not be rescinded. Because HUD has already determined that the guidance it provides is consistent with mandatory policies, CDA reliance on HUD guidance provides the CDA with a "safe harbor."

Material posted on the HUD website, HUD memos, HUD emails sent to executive directors, and responses to email inquiries directed to HUD can provide further clarification of HUD regulations and guidance~~policies~~. For example, FAQs on the HUD website can provide direction on the application of federal regulations in various aspects of the program.

State Law

Where there is no mandatory federal guidance, CDA must comply with state law, if it exists. Where state law is more restrictive than federal law, but does not conflict with it, the CDA should follow the state law. For example, federal regulations establish the baseline for housing discrimination, accessibility, lead safety, and program funding, among many other things, while state laws may dictate specific landlord-tenant rules or local building and safety codes. Local ordinance may also come in to play and impact things like zoning, rental rules, and public safety. It is important to note that while fair housing is governed by the federal Fair Housing Act and other federal anti-discrimination laws (administered and enforced by HUD), there are often stricter state and local laws in many areas. Landlords and PHAs must follow whichever law is more restrictive.

Industry Practice

Where no law or HUD authority exists on a particular subject, industry practice may support CDA policy. Industry practice refers to a way of doing things or a policy that has been adopted by a majority of CDA's/HRA's.

NSPIRE AND HQS IN THE ADMINISTRATIVE PLAN

The CDA must determine that the rental unit selected by the family is in safe and habitable condition at certain times prescribed by the regulations. Starting in 1995, the inspection standard for the HCV and

PBV programs was Housing Quality Standards (HQS). On May 11, 2023, HUD published a final rule implementing the National Standards for the Physical Inspection of Real Estate (NSPIRE final rule), a new approach to defining and assessing housing quality across multiple HUD programs. 24 CFR 5.703 describes the NSPIRE standards, including variations for the HCV and PBV programs. Notice PIH 2023-28 and Notice PIH 2024-26, REV-1 finalized the administrative procedures for NSPIRE as they pertain specifically to the HCV and PBV programs. Collectively, this is known as "NSPIRE-V."

The compliance date for NSPIRE-V was originally scheduled for October 1, 2023, but has been pushed back several times. In September 2025, HUD extended the NSPIRE-V compliance date to February 1, 2027. Once implementation of NSPIRE-V becomes mandatory, the HQS inspection standard will sunset.

Because the definition of *housing quality standards (HQS)* at 24 CFR 982.4 means the minimum quality standards in accordance with 24 CFR 5.703 for the HCV program including any variations approved by HUD, regulations at 24 CFR Part 982 and 983 governing the HCV and PBV programs continue to and will continue to use the terms *HQS* and *housing quality standards* rather than *NSPIRE.* The administrative plan will continue to use the term *housing quality standards* whenever used by applicable regulations.

The administrative plan includes two inspection chapters. The HQS chapter is applicable for inspections prior to the NSPIRE-V implementation date of February 1, 2027. The NSPIRE-V is applicable to inspections conducted on February 1, 2027 and later.

RESOURCES CITED IN THE ADMINISTRATIVE PLAN

This administrative plan cites several documents. Where a document or resource is cited frequently, it may be abbreviated. Where it is cited only once or twice, the administrative plan may contain the entire name of the document or resource. Following is a key to abbreviations used for various sources that are frequently cited in the administrative plan and a list of references and document locations that are referenced in the administrative plan or that may be helpful.

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 policy cites both versions of the guidebook. Therefore, where the HCV Guidebook is cited in the policy, the citation will make a distinction between the "old" and "new" versions of the guidebook. The "old" version of the guidebook will continue to be cited as *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). A revised version of the notice was issued April 16, 2026. The notice supersedes relevant portions of the guidebook, specifically the chapters on eligibility, denials, and annual and interim reexaminations. Where chapters have not been altered by the HOTMA implementation notice, the policy continues to cite the HCV Guidebook.

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 Housing Choice Voucher (also known as Section 8 Voucher program and 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. If 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. 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 assets in Sections 102 and 104 of HOTMA, and for CDAs 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 CDAs on the implementation of the program changes described in the Final Rule. HUD issued a revised version of the notice on February 2, 2024, and April 16, 2026.
- The Final Rule implementing streamlining changes to the HCV and PBV programs (known as the HOTMA Voucher Final Rule) was published on May 7, 2024, and codified certain provisions in Section 101, 105, 106, and 112 of HOTMA as well as incorporating changes from the NSPIRE final rule. Technical amendments to the rule were published December 8, 2025.
- On May 14, 2026, HUD published Notice PIH 2026-15. The notice announced that, as of January 1, 2027, compliance with sections 102 and 104 of the HOTMA is mandatory for all PHAs. Except PHAs who participate in the Moving To Work (MTW) demonstration and PHAs who exclusively use the HUD Family Reporting Software (FRS). For PHAs subject to this compliance deadline, all Form HUD-50058 transactions with an effective date of January 1, 2027, and later must be HOTMA-compliant.

CHAPTER 2

FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

This chapter explains the laws and HUD regulations requiring HRAs/CDAs to affirmatively further civil rights and fair housing in all federally assisted housing programs. The letter and spirit of these laws are implemented through consistent policy and processes. The responsibility to further nondiscrimination pertains to all areas of the CDA's Housing Choice Voucher (HCV) operations.

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

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

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

Part III: ~~Prohibition of Discrimination Against~~ Serving Limited English Proficien~~tey~~ LEP) Persons. This part details current requirements to LEP persons~~the obligations of the CDA to ensure meaningful access to the HCV program and its activities by persons with limited English proficiency (LEP). This part incorporates the Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons published January 22, 2007, in the *Federal Register*~~.

PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

Federal laws require the CDA to treat all applicants and participants equally, providing the same opportunity to access services, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and disability. State law prohibits discrimination in housing on the basis of race, color, sex, religion, familial status, age, disability, national origin, creed, sexual orientation, marital status, or receipt of public assistance. In addition, In addition, 24 CFR 5.105(a)(2)~~HUD regulations~~currently provides for additional protections regarding sexual orientation, gender identity, and marital status.

The CDA ~~will~~must comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

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

- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- Violence Against Women Act (VAWA)

When more than one civil rights law applies to a situation, the laws will be read and applied together.

Minnesota Statute Chapter 363A entitled Minnesota Human Rights Act

Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted will also apply.

2-I.B. NONDISCRIMINATION

Federal regulations prohibit discrimination against certain protected classes and other groups of people. State and local requirements, as well as CDA policies, can prohibit discrimination based on other factors.

The CDA shall not discriminate because of race, color, sex, religion, familial status, age, disability, national origin, creed, sexual orientation, marital status, or receipt of public assistance (called "protected classes").

Familial status includes children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18.

The CDA will not discriminate on the basis of marital status, gender identity, or sexual orientation ~~[FR Notice 02/03/12; Executive Order 13988] [~~as currently required under 24 CFR 5.105(a)(2)~~]~~. HUD ~~E~~enforcement of the *Equal Access in HUD Program Regardless of Sexual Orientation or Gender Identity Final Rule* has been halted. ~~HUD has proposed the elimination of the Equal Access Rule regulation at 24 CFR 5.105(a)(2) to harmonize HUD regulations with Executive Order 14168.~~ HUD ~~has~~ rescinded Notice PIH 2014-20 regarding Equal Access enforcement and has removed references to the rule from the *HCV Guidebook*. ~~As of Spring 2026, elimination of the regulation is currently under review by OMB.~~On April 28, 2026, HUD published a proposed rule that seeks to eliminate references to "gender' and "gender identity" with "sex" as defined by Executive Order 14168. This rule has not yet been finalized or codified.

CDA Policy

The CDA does not identify any additional classes.

2-I.C. DISCRIMINATION COMPLAINTS

General Housing Discrimination Complaints

If an applicant or participant believes that any family member has been discriminated against by the CDA or an owner, the family should advise the CDA. The CDA should make every reasonable attempt to determine whether the applicant's or participant's assertions have merit and take any warranted corrective action.

In all cases the CDA will advise the family that they may file a fair housing complaint with HUD if the family feels they have been discriminated against under the Fair Housing Act.

CDA Policy

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

Within 10 business days of receiving the complaint, the CDA will investigate and attempt to remedy discrimination complaints made against the CDA. The CDA will also advise the family of their right to file a fair housing complaint with HUD's Office of Fair Housing and Equal Opportunity (FHEO) either online, over the phone, or by printing and mailing a housing discrimination complaint to their regional FHEO Office. The fair housing poster, posted in conspicuous and accessible locations in CDA lobbies, will reference how to file a complaint with FHEO.

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

~~**Complaints under the Equal Access Final Rule [Notice PIH 2014-20]**~~

~~Notice PIH 2014-20 requires an articulated complaint process for allegations of discrimination under the Equal Access Final rule. The Equal Access Final Rule requires that CDAs provide equal access regardless of marital status, gender identity, or sexual orientation. The CDA will be informed on these obligations by the HUD Field Office or FHEO when an Equal Access complaint investigation begins.~~

~~CDA Policy~~

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

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

~~The CDA will attempt to remedy discrimination complaints made against the CDA and will conduct an investigation into all allegations of discrimination.~~

~~Within 10 business days following the conclusion of the CDA's investigation, the CDA will provide the complainant and those alleged to have violated the rule with findings and either a proposed corrective action plan or an explanation of why corrective action is not warranted.~~

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

PART III: LIMITED ENGLISH PROFICIENT (LEP) PERSONS

2-III.A. OVERVIEW [OAG MEMO 7/14/25, FHEO MEMO 9/19/25 AND EXECUTIVE ORDER 14224]

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

In response, on July 14, 2025, the Office of the Attorney General (OAG) issued a memo on the implementation of EO 14224, which rescinded all prior guidance to federal agencies regarding Title VI of the Civil Right Act's prohibition against national origin discrimination affecting LEP persons. The memo presents a legal analysis that finds language is not an immutable characteristic entitled to Title VI

protection and decoupling LEP persons from national origin discrimination. HUD FHEO has stated they will prioritize enforcement actions involving intentional discrimination where language has been used as a proxy for national origin or a vehicle for intentional discrimination [FHEO Memo 9/19/25].

The OAG ~~m~~Memo states that, where allowed by law, agencies should determine which of their programs and policies might serve the public at large better if operated exclusively in English. The OAG memo also states that agencies are not required to amend, remove, or otherwise stop production of all multilingual documents, products, or other services prepared or offered. Further, many states and localities have laws regarding language services to be provided to non-English-speaking persons that may apply to the CDA.

Language for Limited English Proficiency Persons (LEP) can be a barrier to accessing important benefits or services, understanding, and exercising important rights, complying with applicable responsibilities, or understanding other information provided by the HCV program.

~~**2-III.B. ORAL INTERPRETATION**~~

~~The CDA will offer competent interpretation services free of charge, upon request, to the LEP person.~~

CDA Policy

~~Families are informed with a language block of their right to request free interpreter services. See Exhibit 2-2.~~Oral and written communications with families will generally be conducted in English. For applicants and participants who may require language assistance, the CDA will encourage families to bring an advocate, family member, friend, or other adult representative to assist in communication. The CDA will also utilize available resources such as bilingual staff, community volunteer resource, responsible use of artificial intelligence technology (as permitted by CDA policy), and/or machine translations to assist families with communication.

~~**2-III.C. WRITTEN TRANSLATION**~~

~~Translation is the replacement of a written text from one language into an equivalent written text in another language.~~

~~CDA Policy~~

~~See Exhibit 2-2.~~

~~**2-III.D. IMPLEMENTATION PLAN**~~

~~After completing the four-factor analysis and deciding what language assistance services are appropriate, the CDA shall determine whether it is necessary to develop a written implementation plan to address the identified needs of the LEP populations it serves.~~

~~If the CDA determines that it is not necessary to develop a written implementation plan, the absence of a written plan does not obviate the underlying obligation to ensure meaningful access by LEP persons to the CDA's Housing Choice Voucher program and services.~~

~~CDA Policy~~

~~See Exhibit 2-2.~~

EXHIBIT 2-2: LIMITED ENGLISH PROFICIENCY PLAN

Section One – Plan Purpose

The Dakota County CDA Limited English Proficiency (LEP) Plan sets forth the policy for ensuring meaningful access by limited English proficient persons to programs and services provided by the CDA.

The Plan has been developed in accordance with Executive Order 13166 and guidance provided by the Department of Housing and Urban Development. The CDA will make reasonable efforts to provide or arrange free language assistance for LEP clients. This includes applicants, recipients and/or persons eligible for CDA programs.

Section Two – Definitions

Limited English Proficient (LEP): Persons who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English can be LEP, and may be entitled to language assistance with respect to a particular service, benefit, or encounter.

Interpretation: The act of listening to something in one language (source language) and orally translating it into another language (target language).

Translation: Is the replacement of written text from one language (source language) into an equivalent written text in another language (target language)

Meaningful Access: Meaningful access to programs and services is the standard of access required of federally funded entities to comply with Title VI's language access requirements. To ensure meaningful access for people with limited English proficiency, service providers must make available to applicants/recipient's free language assistance that result in accurate and effective communication.

Section Three – Four Factor Analysis

In taking reasonable steps to ensure meaningful access to programs and services by LEP persons, the CDA shall determine need within its service jurisdiction by balancing the following four factors:

- The number or proportion of LEP persons eligible to be served or likely to be encountered by the CDA.
- The frequency with which the CDA encounters a particular language.
- The nature and importance of the program, activity, or service to the person's life.
- The CDA's resources and the cost of providing meaningful access. Reasonable steps may cease to be reasonable when the costs imposed substantially exceed the benefits.

In analyzing the eligible market area and program beneficiaries by using the four factors, the CDA may conclude that different language assistance measures are sufficient for different types of programs and/or activities. Measures employed will be based on what is considered necessary and reasonable.

Section Four – Language Assistance

CDA staff will take reasonable steps to provide the opportunity for meaningful access by LEP clients who have difficulty communicating in English. The CDA has the discretion to determine whether language assistance is needed, and if so, the type of assistance necessary to provide meaningful access.

The Agency has identified two methods of providing meaningful access:

Interpreter Services

Oral interpretation services may be provided using informal and formal interpreters including bilingual staff, telephone interpretation services, contracted in-person interpreters, and informal interpreter networks.

Informal: Depending on the circumstances, timing, and subject matter the use of informal interpreters may be appropriate. Examples of informal interpreters include the LEP client's family members, friends, or advocates. CDA employees should be aware that staff should never require, suggest, or encourage a LEP client to use family members or friends as interpreters. However, a LEP person may use an informal interpreter of their own choosing and expense in place of or as a supplement to the free language assistance offered by the CDA. Due to issues of confidentiality and competency, informal interpreters must be

over the age of 18. If the participant provides an informal interpreter, they must acknowledge that information that could be considered as private or confidential information under the Minnesota Government Data Practices Act or the federal Privacy Act may be discussed at the meeting, appointment, or phone call, and that they consent to any disclosure of that information to the informal interpreter. Further, the CDA may also have a formal interpreter present, even if the LEP person has requested use of an informal interpreter.

Formal: Formal interpreters may include contract vendors and CDA staff. The CDA shall maintain contracts with professional interpreting services and determine, based on client need, the best source for such services. This service shall be free to clients. Contract interpretation services include:

State of Minnesota: Under State of Minnesota Cooperative Purchasing Venture (CPV) guidelines, the CDA has access to statewide master contracts with qualified vendors of spoken language interpreter services.

Dakota County Community Services: Dakota County Community Services has developed contracts with agencies to provide oral interpretation, written translation and American Sign Language to assist with clients who have limited English proficiency.

Dakota County CDA Listing: The CDA has developed a list of commonly used interpreters.

Competency of Interpreters: To provide effective services to LEP persons, the CDA will use competent interpreters. Competency to interpret does not necessarily mean formal certification as an interpreter but competency requires that interpreters:

- Demonstrate proficiency in and ability to communicate information accurately in both English and in the other language and identify and use the appropriate mode of interpreting.
- Have fundamental knowledge in both languages of any specialized terms or concepts.
- Understand and adhere to their role as interpreters without deviating into a role outside of interpreting such as counselor or legal advisor.
- Demonstrate a solid understanding and compliance with MN Data Privacy laws

Means of providing: If a client asks for or indicates otherwise a need for language assistance, the CDA will determine whether the client is LEP, and that language assistance is necessary to provide meaningful access. Interpretation that is needed and reasonable shall be provided at a time and place that avoids the effective denial of the service or benefit.

Documentation of Use: CDA staff shall document in the client's case file or record when an interpreter is used or when a client makes use of another form of language assistance.

If the client has been offered free interpretive services and chooses to utilize their own interpreter, the client must sign a waiver indicating that they are giving up their right to free interpreter services. The waiver will be in effect for the time period indicated on the form.

Translation Services

The CDA will weigh the costs and benefits of translating documents for LEP groups, considering the expense of translating the documents, the barriers to meaningful translation of technical housing information, the likelihood of frequent changes in documents, the existence of multiple dialects within a single language group, the literacy rate of an LEP group and other relevant factors. The CDA will undertake the examination when an eligible LEP group constitutes 5 percent of an eligible client group or 1,000 persons, whichever is less.

As opportunities arise, the CDA may work with other housing authorities to share the costs of translating common documents.

Section Five – Notification

Client Notification

The CDA will provide notification of free language services by providing notice in appropriate languages explaining how LEP persons can receive assistance. Examples of client notification may include:

- Use of the Minnesota Department of Human Services Language Block (#1) at initial points of contact such as the CDA's main lobby, briefing room, and other key office locations such as cubicles where client meetings occur.
- Use of the Minnesota Department of Human Services Language Block (#4) in documents such as letters and applications.

Staff Notification

The CDA will provide notification to staff regarding the obligation to provide meaningful access to information and services

~~for LEP persons. Examples of staff notification may include:~~

- ~~Explanation of requirements at new employee orientation.~~
- ~~Training sessions for supervisors and other staff who need to communicate with LEP clients regarding the LEP plan details and the requirement to offer free language assistance.~~

~~Section Seven – Evaluation and Monitoring~~

~~From time to time, the CDA will review the LEP Policy to determine its overall effectiveness. The review may consider the following areas:~~

- ~~Changes in the current LEP populations;~~
- ~~Changes in the frequency of encounters with LEP language groups;~~
- ~~The nature and importance of agency activities to LEP persons;~~
- ~~The availability of resources including technological advances, additional resources, and costs imposed;~~
- ~~Whether existing assistance is meeting the needs of LEP persons;~~
- ~~Whether staff knows and understands the LEP plan;~~
- ~~Whether identified sources for assistance are still available and viable.~~

CHAPTER 3

ELIGIBILITY

INTRODUCTION

The CDA 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 CDA 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 CDA.
  - Have income at or below HUD-specified income limits.
  - Qualify based on citizenship or the eligible immigrant status of family members.
  - Provide social security number information and documentation for household members as required.
  - Consent to the CDA's collection and use of family information as provided for in CDA-provided consent forms.
  - Not currently receiving a duplicative subsidy.
  - ~~Upon the CDA's full implementation of HOTMA, m~~Meet net asset and real property ownership restriction requirements.
- The CDA must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or the CDA.

This chapter contains three parts:

Part I: Definitions of Family and Household Members. This part contains HUD and CDA 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 CDA to deny assistance as well as the asset limitation for HCV.

3-II.B. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5, Subpart E]

Housing assistance is available only to individuals who are U.S. citizens, U.S. nationals (herein referred to as citizens and nationals), or noncitizens that have eligible immigration status. At least one family member must be a citizen, national, or noncitizen with eligible immigration status for the family to qualify for any level of assistance.

All applicant families must be notified of the requirement to submit evidence of their citizenship status or

eligible immigration status or to elect not to contend that they have eligible status when they apply for assistance [24 CFR 5.508(f)(1)(i)].

Declaration [24 CFR 5.508]

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

The following section is applicable for actions January 1, 2027, and later to comply with ~~CDA's~~ HOTMA 102/104 ~~compliance date, the following section on the asset limitation is added. The asset limitation does not apply until the CDA's HOTMA compliance date.~~

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 the HUD-published asset limitation amount (adjusted annually by HUD).

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

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

- A present ownership interest in the real property; 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.

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

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

requirements under VAWA. The CDA 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;

  CDA Policy
  The CDA defines *not sufficient for the size of the family* as being overcrowded based on space standards in Chapter 8 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 CDA or owner);

  CDA Policy

  In general, the CDA defines a *geographic hardship* to include when a family members' work, school, health care provider, or other necessary service is located an unreasonable distance from the real property or there is a lack of adequate transportation options for the family to access work, school, health care, or other necessary services. The CDA will consider circumstantial details a family faces when determining whether a geographic hardship is present.

- Is not safe to reside in because of the physical condition of the property (e.g., property's physical condition poses a risk to the family's health and safety and the condition of the property cannot be easily remedied); or
- Is not a property that a family may reside in under the state or local laws of the jurisdiction where the property is located.

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

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

3-III.E. SCREENING

Screening for Eligibility

CDA's are authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the HCV program. This authority assists the CDA in complying with HUD requirements and CDA policies to deny assistance to applicants who are engaging in or have engaged in certain criminal activities. To obtain access to the records the CDA must require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903].

CDA Policy

The CDA will perform a criminal background check through a credible, third-party screening company for every adult household member.

While the CDA has regulatory authority to use criminal conviction records for the purpose of applicant screening for admission, there is no corresponding authority to use these records to check for criminal and illegal drug activity by participants, and therefore, the CDA may not use records for this purpose.

The CDA is required to perform criminal background checks necessary to determine whether any household member is subject to a lifetime registration requirement under a state sex offender program in the state where the housing is located, as well as in any other state where a household member is known to have resided [24 CFR 982.553(a)(2)(i)]. ~~Additionally, the CDA must ask whether the applicant, or any member of the applicant's household, is subject to a lifetime registered sex offender registration in any state [Notice PIH 2012-28]~~Applicants must provide a complete list of all states in which any household member has resided. Failure to accurately respond to any question during the application process is cause to deny the family admission [Notice PIH 2012-28].

4-II.F. UPDATING THE WAITING LIST [24 CFR 982.204]

HUD requires the CDA to establish policies to use when removing applicant names from the waiting list.

Purging the Waiting List

The decision to withdraw an applicant family that includes a person with disabilities from the waiting list is subject to reasonable accommodation. If the applicant did not respond to a CDA request for information or updates, and the CDA determines that the family did not respond because of the family member's disability, the CDA must reinstate the applicant family to their former position on the waiting list [24 CFR 982.204(c)(2)].

CDA Policy

The waiting list will be updated as needed to ensure that all applicants and applicant information is current and timely.

To update the waiting list, the CDA will send a notice via email to each family on the waiting list to determine whether the family continues to be interested in the program. This notice will be sent to the last email address that the CDA has on record for the family.

If the family fails to respond by the deadline provided, the family will be removed from the applicable waiting list being updated by the Housing Assistance Department without further notice.

If the notice is returned as undeliverable, the applicant will be removed from the applicable waiting list being updated by the Housing Assistance Department without further notice.

- ~~If the family contacts the CDA within 30 days of removal, the family will be placed back on the waiting list(s).~~
- If the family is removed from the waiting list for failure to respond, the CDA may reinstate, at its discretion, if it has determined under the family's unique circumstances it is necessary.

5-I.B. BRIEFING [24 CFR 982.301]

Notification of Briefing

Prior to issuance of a voucher, the CDA must give the family an oral briefing and provide the family with

a briefing packet containing written information about the program. Families may be briefed in individual face-to-face meetings, through group briefing sessions, or via remote briefing sessions.

CDA Policy

Families will be notified of their eligibility for assistance at the time they are invited to a briefing. The notice will be sent by email.

The notice will advise the family of the type of briefing, who is required to be present at the briefing, and the date and time of the briefing. The notice will also inform the family of any additional requirements for in-person or remote briefings in relevant policy elsewhere in this section.

In-Person Briefings

At the briefing, the CDA must ensure effective communication in accordance with Section 504 requirements (Section 504 of the Rehabilitation Act of 1973) and ensure that the briefing site is accessible to individuals with disabilities. For a more thorough discussion of accessibility requirements, refer to Chapter 2.

CDA Policy

- Briefings will generally be conducted in group meetings.
- All adult members are encouraged to attend the briefing.
- Families that attend group briefings and still need individual assistance will be referred to a new admissions housing specialist.
- Briefings will be conducted in English. For applicants who may require language assistance, the CDA will encourage families to bring an advocate, family member, friend, or other adult representative to assist in communication. The CDA will also utilize available resources such as bilingual staff, community volunteer resources, responsible use of artificial intelligence technology (in compliance with CDA policy), and/or machine translation to assist families with communication.
- If an applicant with a disability requires auxiliary aids to gain full benefit from the briefing, the CDA will furnish such aids where doing so would not result in a fundamental alteration of the nature of the program or in an undue financial or administrative burden. In determining the most suitable auxiliary aid, the CDA will give primary consideration to the requests of the applicant.
- An applicant unable to attend a briefing due to a disability may request a reasonable accommodation such as having the briefing presented at an alternate location.

5-II.B. DETERMINING FAMILY VOUCHER SIZE [24 CFR 982.402]

For each family, the CDA is required to establish the appropriate number of bedrooms to determine the CDA subsidy standards and enters the family voucher size on the voucher that is issued to the family. The family voucher size does not dictate the size of unit the family must lease, nor does it determine who within a household will share a bedroom/sleeping room.

The following requirements apply when the CDA determines family unit size:

- The subsidy standards must provide for the smallest number of bedrooms needed to house a family without overcrowding.

- The subsidy standards must be consistent with space requirements under 24 CFR 5.703.
- The subsidy standards must be applied consistently for all families of like size and composition.
- A child who is temporarily away from the home because of placement in foster care is considered a member of the family in determining the family voucher size.
- A family that consists of a pregnant woman (with no other persons) must be treated as a two-person family.
- Any live-in aide (approved by the CDA to reside in the unit to care for a family member who is disabled or is at least 50 years of age) must be counted in determining the family voucher size.
- Unless a live-in-aide resides with a family, the family unit size for any family consisting of a single person must be either a zero- or one-bedroom unit, as determined under the CDA subsidy standards.

  CDA Policy

  The CDA will assign the first bedroom to head of household and spouse/co-head, if applicable.

  Thereafter, the CDA will assign one bedroom for each of the two persons within the household, as shown in the following chart.

Subsidy Standard Number of Bedrooms	Number of Persons
1	2
2	4
3	6
4	8

The following circumstances are exceptions:

- Live-in aides will be allocated a separate bedroom.
- Single-person families will be allocated one bedroom.
- ~~Foster adults and foster children will be allocated separate bedrooms~~A foster child or foster adult may be allowed to reside in the unit if their presence would not result in overcrowding of the existing unit. If the authorized placement agency (e.g. public welfare agency) requires that the foster child have a separate bedroom, the CDA will provide the subsidy standard for one additional bedroom.
- Families receiving PBV assistance may accept a smaller unit than the voucher size qualified for, if occupancy standards are not exceeded. For example, a household composition of head of household and three minor dependents would qualify for a 3-bedroom subsidy standard. However, the household could accept a 2-bedroom PBV unit as occupancy standards would not be exceeded.
- Families receiving PBV assistance may choose to remain in a smaller unit that is not overcrowded.
- Families receiving PBV assistance, at the time the subsidy standards were updated on October 9, 2021, that would be negatively impacted (i.e., requiring a move) will not be required to right size. Subsequent household changes, not related to the subsidy standard update, that result in a change to the voucher size, will require right sizing the unit. (For example, if a head of household and two minor children reside in a 3-bedroom unit and one of the children vacates the unit, the household will need to move to a 2-bedroom unit.)

Chapter 6.B.

INCOME AND SUBSIDY DETERMINATIONS UNDER HOTMA 102/104

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

INTRODUCTION

This chapter is applicable upon the CDA's HOTMA 102/104 compliance date effective January 1, 2027. Prior to this date, the CDA will follow policies as outlined in Chapter 6.A. of the Administrative Plan.

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

~~Calculation of the Disallowance~~

~~Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with their "baseline income." The family member's baseline income is their income immediately prior to qualifying for the EID. The family member's baseline income remains constant throughout the period that they are participating in the EID.~~

~~Calculation Method~~

~~Initial 12-Month Exclusion~~

~~During the initial exclusion period of 12 consecutive months, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded.~~

> ~~CDA Policy~~
> ~~The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.~~

~~Second 12-Month Exclusion~~

~~During the second exclusion period of 12 consecutive months, the CDA must exclude at least 50 percent of any increase in income attributable to employment or increased earnings.~~

> ~~CDA Policy~~
> ~~During the second 12-month exclusion period, the CDA will exclude 100 percent of any increase in income attributable to new employment or increased earnings.~~

~~Lifetime Limitation~~

~~The EID has a two-year (24-month) lifetime maximum. The two-year eligibility period begins at the same time that the initial exclusion period begins and ends 24 months later. During the 24-month period, an~~

~~individual remains eligible for EID even if they begin to receive assistance from a different housing agency, move between public housing and Section 8 assistance, or have breaks in assistance. The EID will sunset on January 1, 2026. In no circumstances will a family member's exclusion period continue past January 1, 2026.~~

6-I.~~G~~F. STUDENT FINANCIAL ASSISTANCE [FR Notice 2/14/23 and Notice PIH 2023-27]

Introduction

~~The treatment of student financial assistance depends on the HUD program, student/household characteristics, and the type of financial assistance received by the student. For public housing residents, all income received under Title IV of the HEA must be excluded from income. Other student financial assistance may be included depending on the students actual covered costs to For Section 8 programs, including HCV, however, for over 10 years HUD appropriations have included a provision that for Section 8 students who are age 23 and under and without dependent children, any amounts received in excess of tuition and any other required fees and charges must be considered income. Under HOTMA, HUD has interpreted this limitation to apply when the student is the head of household or spouse, but not when the student resides with their parents [71 FR 18146].~~

~~For any funds from a year where HUD's appropriations continue to include this Section 8 student financial assistance limitation, if the student does not reside with their parents is the head of household, cohead, or spouse, and is under the age of 23 or without dependent children, then both the assistance received under Title IV HEA and other student financial assistance received by the student is included as income to the extent that it exceeds the total of tuition and any other required fees and charges.~~

~~In contrast, student financial assistance received by a Section 8 student who is the head of household, spouse, or cohead, and is over the age of 23 with dependent children, or a student who resides with their parents in a Section 8 unit, is governed by the HOTMA student rule, which is 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 for all Section 8 students defaults to the methodology for public housing.~~

~~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. The first category is any assistance to students under section 479B of the Higher Education Act of 1965 (Title IV of the HEA) which 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;
- Teacher Education Assistance for College and Higher Education (TEACH~~each~~) Grants;
- Federal Work Study ~~P~~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

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]

~~There are two steps required as part of the calculation for Section 8 students. First, determine the student's relationship to the household, age, and whether they have dependent children. Second, calculate whether any excess student financial assistance should be included in the family's income.~~

~~If the student does not live with their parents and is the head of household, cohead, or spouse, and is 23 or younger or does not have dependent children, then Title IV HEA assistance is considered when determining the student's total financial aid amount. Subtract the total tuition plus required fees and charges from the total student financial assistance (Title IV HEA assistance and any other student financial assistance). If the total tuition plus required fees and charges is zero or exceeds the amount of total financial assistance from all sources, then no student financial assistance is included in annual income. Any amount of student financial assistance that exceeds the total tuition plus required fees and charges must be included in annual income.~~

~~If the student either lives with their parents or is over 23 with dependent children, then the calculation will use the HOTMA methodology for calculating financial assistance, which~~ The formula for calculating student financial assistance 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.

CDA Policy

~~If the student does not live with their parents and is the head of household, cohead, or spouse, and is 23 or younger or does not have dependent children, then Title IV HEA assistance will be considered when determining the student's total financial assistance to be included in annual income. The CDA will use Notice PIH 2015-21 as a guide to determine the total amount of the student's tuition plus required fees and charges. The CDA will subtract the total tuition plus required fees and charges from the total student financial assistance. If the result is zero or exceeds the amount of total financial assistance from all sources, then no student financial assistance will be included in annual income. Any amount of student financial assistance that exceeds the total tuition plus required fees and charges will be included in annual income.~~

~~Example 1~~

- ~~Tuition and required fees and charges: $20,000~~
- ~~Title IV HEA assistance: $10,000~~
- ~~Other student financial assistance: $15,000~~
- ~~Total student financial assistance: $10,000 + $15,000 = $25,000~~
- ~~Included income: $25,000 in financial assistance – $20,000 tuition and required fees = $5,000~~

Alimony and Child Support [Notice PIH 2023-27]

Annual income includes all amount received, not the amount that a family may be legally entitled to receive but did not. As such, a family's child support or alimony income must be based on payments received, not the amounts the family is entitled to receive based on any court or agency order. A copy of a court order or other written payment agreement alone may not be sufficient verification of amounts received by a family.

CDA Policy

The CDA will count court-awarded amounts for alimony and child support unless the CDA 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.

The CDA considers historical patterns to be the best indicator of future income from alimony and child support; therefore, the CDA will anticipate child support income based on the payments received in the previous 12 months unless documentation is provided by the family showing a permanent change in status (i.e., the death of the supporter or termination of the payment obligation).

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 CDA 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 CDA 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.

CDA Policy
Any lump-sum receipts are only counted as assets if they are retained by a family in a form recognizable as an asset. [RHIIP FAQs]. For example, if the family receives a $10,000 lump sum for lottery winnings, and the family immediately spends the entire amount, the lump sum will not be counted toward net family assets.

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 net family assets. When the subtraction results in a negative number, then net family assets are considered $0.

The CDA is not rquired to verify the amount of the family's federal tax refund or refundable tax credits if the family's net assets are equal to or below the HUD-determined threshold (adjuated annually for inflation), even in years when full verification of asssets is required or if the CDA does not accept self-certification of assets. The CDA must verify the amount of the family's federal tax refund or refundable tax credits if the family's net assets are greater than the HUD-determined threshold.

The anticipated income earned by the assets in whieh a family has desposited their federal tax refund or refundable tax credits must be included in the family's annual income unless the income is specifically excluded.

Asset Exclusions [24 CFR 5.603(b)]

PART III: ADJUSTED INCOME

6-III.A. INTRODUCTION

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

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

(a) *Mandatory deductions*
(1) $~~480~~500 for each dependent (adjusted annually by HUD, rounded to the next lowest multiple of $25);
(2) $~~525~~550 for any elderly family or disabled family (adjusted annually by HUD, rounded to the next lowest multiple of $25);
(3) The sum of the following, to the extent the sum exceeds ten percent of annual income:
(i) Unreimbursed health and medical care expenses of any elderly family or disabled family;
(ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed; and
(4) Any reasonable childcare expenses necessary to enable a member of the family to be employed or to further his or her education.

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

Anticipating Expenses

CDA Policy
Generally, the CDA will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., childcare during school and non-school periods and cyclical medical expenses), the CDA 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 CDA 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 CDA may require the family to provide documentation of payments made in the preceding year.

When calculating health and medical care expenses, the CDA 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 CDA will use information for the previous 12-month period.~~

6-III.B. DEPENDENT DEDUCTION

An allowance of $~~480~~500 is deducted from annual income for each dependent (which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of $25) [24 CFR 5.611(a)(1)]. *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~~550 is taken for any elderly or disabled family (which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical

Workers, rounded to the next lowest multiple of $25) [24 CFR 5.611(a)(2)].
An *elderly family* is a family whose head, spouse, cohead, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR 5.403].

6-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 percent of annual income.

This deduction is permitted only for families in which the head, spouse, or cohead is at least 62 or is a person with disabilities. If a family is eligible for a health and medical care expense deduction, the unreimbursed health and medical care expenses of all family members are included. The CDA calculates health and medical care expenses based on the family's past expenses, but accounting for any anticipated changes in expenses during the certification period.

Definition of *Medical Expenses*

HUD regulations define *health and medical care expenses* at 24 CFR 5.603(b) to mean "any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body". Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed.

Health and medical care expenses may be deducted from annual income only if they are eligible under this definition and not otherwise reimbursed.

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 CDAs to specifically align their policies to IRS Publication 502. CDAs must review each expense to determine whether it is eligible in accordance with HUD's definition.

While CDA policies may not specifically align with IRS Publication 502, HUD recommends CDAs use it as a standard for determining allowable expenses, and the CDA may list examples of allowable expenses in their policy provided they comply with HUD's definition at 24 CFR 5.603. The CDA may not define *health and medical care expenses* more narrowly than the regulation.

In accordance with the Health Insurance Portability and Accountability Act (HIPAA) Pub. L. 104-191, 110 Stat. 1936) and Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896), when requesting documentation to determine unreimburseable health and medical care expenses, the CDA may not request documentation beyond what is sufficicent to determine anticipated health and medical care costs.

CDA Policy

The CDA will use the most current IRS Publication 502 as a standard for determining if expenses claimed by eligible families qualify as health and medical care expenses. However, under no circumstances will the CDA deduct any expenses listed in IRS Publication 502 that do not conform with HUD's definition of *health and medical care expenses.*

Summary of Typical Allowable Health and Medical Care Expenses	
Services of medical professionals Surgery and medical procedures that are necessary, legal, and non-cosmetic Services of medical facilities Hospitalization, long-term care, and in-home nursing services Prescription medicines and insulin, but not non-prescription medicines even if recommended by a doctor Improvements to housing directly related to medical needs (e.g., ramps for a wheelchair, handrails) Medical insurance premiums or the cost of a health maintenance organization (HMO) Medicare Part B and Part D premiums	Substance abuse treatment programs Psychiatric treatment Ambulance services and some costs of transportation related to medical expenses. The CDA will use the most current medical mileage rate listed in IRS Publication 502. The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth) The costs of buying, training, and maintaining a guide dog or other service animal to assist a visually impaired or hearing disabled person, or a person with other physical disabilities. In general, this includes any costs, such as food, grooming, and veterinary care, incurred in maintaining the health and vitality of the service animal so that it may perform its duties.
Note: This chart provides a summary of eligible health and medical care expenses only. In all cases, the CDA will consider whether health and medical expenses care expenses claimed by the family are eligible under HUD's definition.	

Before placing health, medical, or disability expense bills and documentation in the tenant file, the CDA will redact all personally identifiable information.

If the CDA 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 CDA 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 CDA will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will the CDA include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

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

CDA 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 CDA 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

Phased-In relief applies to families affected by the statutory increase in threshold for unreimbursed health and medical expenses and/or disability assistance expense from 3 percent to 10 percent,~~The first category is applicable to all~~ Qualifying families are those who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on their most recent income review prior to the date the CDA begins implementing the relief for the applicable HOTMA compliance deadline established by notice, whichever occurs first~~January 1, 2024~~. 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, after the date on which the CDA implements phased-in relief~~ after that date.

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 CDA 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 CDAs develop policies defining what constitutes a hardship for purposes of this exemption.

The CDA must obtain third-party verification of the hardship or must document, in the file, the reason third-party verification was not available. CDAs must attempt to obtain third-party verification prior to

the end of the 90-day hardship exemption period.

CDA Policy
To qualify for a hardship exemption, all family~~y~~ies must submit a request in writing to the CDA.

For all families requesting a general relief hardship, t~~T~~he 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.

For this purpose, t~~T~~the CDA defines *a change in circumstances* as a decrease in income or increase in other expenses that has resulted in the family's financial hardship but does not, on its own, trigger an interim reexamination in accordance with CDA policies. Examples of a change in circumstances include the need for new health and medical care or disability assistance expenses or an increase int eh cost of qualifying expenses so that qualifying expenses exceed 5 percent of the family annual income.

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 CDA.

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, the CDA 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 CDA will 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. If the CDHA 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 CDA 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 CDA will note in the individual's file that verification was received, the date received, and the name and address of the person or organization that provided the verification. Under no circumstances will the CDA include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

6-IV.C. APPLYING PAYMENT STANDARDS [24 CFR 982.505(c) and Notice PIH 2024-34]

Overview
The CDA's schedule of payment standards is used to calculate housing assistance payments for HCV families. This section covers the application of the CDA's payment standards. The establishment and revision of the CDA's payment standard schedule are covered in Chapter 16.
Payment standard is defined as "the maximum monthly assistance payment for a family assisted in the

voucher program (before deducting the total tenant payment by the family)" [24 CFR 982.4(b)].

The payment standard for a family is the lower of (1) the payment standard for the family unit size, which is defined as the appropriate number of bedrooms for the family under the CDA's subsidy standards [24 CFR 982.4(b)], or (2) the payment standard for the size of the dwelling unit rented by the family [24 CFR 982.505(c)(1)].

If the CDA has established an exception payment standard for a designated part of a FMR area in accordance with 24 CFR 982.503 and a family's unit is located in the designated area, the CDA must use the appropriate payment standard for the exception area [24 CFR 982.505(c)(2)].

The CDA is required to pay a monthly housing assistance payment (HAP) for a family, that is the lower of (1) the payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP.

If during the term of the HAP contract for a family's unit, the owner lowers the rent, the CDA will recalculate the HAP using the lower of the initial payment standard or the gross rent for the unit [HCV GB, p. 7-8].

Changes in Payment Standards
When the CDA revises its payment standards during the term of the HAP contract for a family's unit, it will apply the new payment standards in accordance with HUD regulations. Regulations governing increases and decreases in the payment standard have changed, with a required compliance date of December 3, 2024.

Decreases **[24 CFR 982.505(c)(3) and Notice PIH 2024-34]**
For new HAP contracts, the CDA applies the payment standard in effect at the time of HAP contract execution.

The CDA must administer decreases in the payment standard amount for the family in accordance with the CDA policy as described in the administrative plan and apply the policy consistently to all families.

If the CDA changes its payment standard schedule, resulting in a lower payment standard amount, during the term of a HAP contract, the CDA is not required to reduce the payment standard used to calculate subsidy for families under HAP contract as long as the HAP contract remains in effect. The CDA must administer decreases in the payment standard amount for the family in accordance with the CDA policy as described in the administrative plan.

~~**Changes effective 12/3/24 and later:**~~ If the CDA does choose to reduce the payment standard for families currently under HAP contract, the initial reduction to the payment standard may not be applied any earlier than two years following the effective date of the decrease in the payment standard and only with proper written notice to the family in accordance with 24 CFR 982.505(c)(3)(iii).

At that point, the CDA may either reduce the payment standard to the current amount in effect on the CDA's payment standard schedule or may reduce the payment standard to another amount that is higher than the normally applicable amount on the schedule. The CDA may also establish different policies for designated areas within their jurisdiction (e.g., different zip code areas).

In any case, the CDA must provide the family with at least 12 months' notice that the payment standard is being reduced before the effective date of the change. In the written notice, the CDA must state the new payment standard amount, explain that the family's new payment standard amount will be the greater of the amount listed in the current written notice or the new amount (if any) on the CDA's payment standard schedule at the end of the 12-month period, and make clear where the family will find the CDA's payment standard schedule. The CDA's policy on decreases in the payment standard during the term of the HAP contract apply to all families under HAP contract at the time of the effective date of the decrease in the payment standard within the designated area.

CDA Policy

When the payment standard schedule is decreased during the term of the HAP contract, the CDA will apply decreased payment standards beginning two years following the effective date of the decrease in the payment standard.

The CDA will compare the current payment standard to the payment standard last used to calculate the monthly housing assistance for the family.

First annual reexamination: The CDA will use the higher of these payment standards.

Second annual reexamination (unless effective on or after the two-year anniversary of the effective date of the decreased payment standard): The CDA will use the higher of the previous payment standard or the current payment standard.

For any reexamination effective on or later than two years from the effective date of the decreased payment standard: The decreased payment standard from the schedule effective two years prior will be used, unless the CDA subsequently increased the payment standard. In that case, the current, increased payment standard will be used.

In all cases, the CDA will provide the family with a minimum of 12 months' notice prior to applying a decreased payment standard. The notice will include the new payment standard amount, explain that the family's new payment standard amount will be the greater of the amount listed in the current written notice or the new amount (if any) on the CDA's payment standard schedule at the end of the 12-month period, and make clear where the family will find theCDA's payment standard schedule.~~If a CDA changes its payment standard schedule resulting in a lower payment standard amount, during the term of a HAP contract, the CDA will not reduce the payment standard used to calculate subsidy for families under HAP contract as long as the HAP contract remains in effect.~~

~~The CDA will not establish different policies for decreases in the payment standard for designated areas within their jurisdiction.~~

Increases **[24 CFR 982.505(c)(4) and Notice PIH 2024-34]**

For new HAP contracts, the CDA applies the payment standard in effect at the time of HAP contract execution.

~~**Changes effective 12/2/24 and earlier:** If the payment standard is increased during the term of the HAP contract, the increased payment standard will be used to calculate the monthly housing assistance payment for the family beginning on the effective date of the family's first regular reexamination on or~~

~~after the effective date of the increase in the payment standard.~~
~~Families requiring or requesting interim reexaminations will not have their HAP payments calculated using the higher payment standard until their next annual reexamination [HCV GB, p. 7-8].~~

~~**Changes effective 12/3/24 and later:**~~ If the payment standard is increased during the term of the HAP contract, the increased payment standard will be applied no later than the earliest of:

- The effective date of an increase in the gross rent that would result in an increase in the family share;
- The family's first regular or interim reexamination; or
- One year following the effective date of the increase in the payment standard amount.

The CDA may adopt a policy to apply a payment standard increase at any time earlier than the date calculated above as long as the policy is included in the administrative plan and applied consistently to all families [24 CFR 982.505(c)(5)].

CDA Policy
The CDA will not adopt payment standard increases earlier than the date required by the regulations.

~~***Changes in Family Unit Size (Voucher Size)*** **[24 CFR 982.505(c)(6) and Notice PIH 2024-34]**~~
~~**Changes effective 12/2/24 and earlier:** Irrespective of any increase or decrease in the payment standard, if the family unit size increases or decreases during the HAP contract term, the new family unit size must be used to determine the payment standard for the family beginning at the family's first regular reexamination following the change in family unit size.~~

~~**Changes effective 12/3/24 and later**~~**:** Irrespective of any increase or decrease in the payment standard, if the family voucher~~unit~~ size increases or decreases during the HAP contract term, the new family voucher~~unit~~ size may be used to determine the payment standard immediately but no later than the family's first regular reexamination following the change in family unit size.

CDA Policy
If the family voucher~~unit~~ size ~~(voucher size)~~ changes during the term of a HAP contract, the new family voucher~~unit~~ size will be used to determine the payment standard at the family's first regular reexamination following the change in family voucher~~unit~~ size.

CHAPTER 7.A.
VERIFICATION
[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230, Notice PIH 2023-27]

INTRODUCTION
The CDA 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 CDA must not pass on the cost of verification to the family.

The CDA must follow the verification guidance provided by HUD in Notice PIH 2023-27 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary CDA 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 CDA.

PART I: GENERAL VERIFICATION REQUIREMENTS

7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230, and Notice PIH 2023-27]

~~The family must supply any information that the CDA or HUD determines is necessary to the administration of the program and must consent to CDA verification of that information [24 CFR 982.551].~~

Consent Forms

The family must supply any information that the CDA or HUD determines is necessary to the administration of the program and must consent to CDA 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 CDA must use form HUD-9886, this form does not release all the information necessary to the administration of the program. The CDA must also develop its own release forms to cover all other necessary information.

In addition, if the CDA chooses to distribute EIV reports via mail, email, or other method it ust ensure compliance with the Federal Privacy Act.

CDA Policy

At admission, the CDA will request that all adult family members (other than the head of household) sign consent forms stating that their EIV income information may be shared with the head of household. Adult family members with no such consent form on file will be requested to sign at annual reexamination.

If an adult family member other than the head of household fails to sign a consent form stating that their EIV income information may be shared with the head of household, the CDA will utilize EIV's "Print Household Member Information" feature to generate income reports addressed separately to each adult in the household. For example, if a household has two adults, the CDA will provide one report to the head of household and a separate report to the other adult member.

Refusal by an adult family member to sign a form granting permission to provide EIV information to the head of household is not grounds for denial or termination of assistance of either the individual or the family.

The executed form will remain effective until the family is denied assistance, the individual leaves the program, or the family member provides written notification to the CDA to revoke consent.

Form HUD-9886. Authorization for Release of Information [24 CFR 5.203(b)(1), (b)(2), (c)(4), and (c)(5); Notice PIH 2023-27]

~~All adult applicants and participants sign form HUD-9886 and 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, p~~Prior to January 1, 2024, participants 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 CDA'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~~is only ~~be~~ signed once. Another Form HUD-9886 will not be submitted to the CDA 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 CDA in administrative instructions.

The CDA has the discretion to establish policies around when family members must sign consent forms when they turn 18. CDAs must establish these policies stating when family members will be required to sign consent forms at intervals other than at reexamination.

CDA 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.

The CDA 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 CDA 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 CDA to revoke consent.

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 CDA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). The CDA must also develop its own release forms to cover all other necessary information not covered by the form HUD-9886-A.

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 CDA must deny admission to applicants and terminate assistance of participants. The family may request an informal review (applicants) or informal hearing (participants) in accordance with CDA 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 CDA to access financial records from financial institutions, unless the CDA 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)]. The CDA may not process interim or annual reexaminations of income without the family's executed consent forms.

CDA Policy
The CDA 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 CDA policy.

In order for a family to revoke their consent, the family must provide written notice to the CDA. Within 10 business days of the date the family provides written notice, the CDA 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 CDA 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]

The CDA 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. ~~CDAs are not required to accept or use determinations of income from other federal means-tested forms of assistance.~~ If the CDA adopts a policy to accept this type of verification, the CDA must ~~establish~~ include in policy when they will accept Safe Harbor income determinations and from which programs. The CDA 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 CDA 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, the CDA 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 CDA:

- 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.

Deceased Tenants Reports [Notice PIH ~~2012-4~~2026-11 and Notice PIH 2023-27]

The Deceased Tenant Report identifies residents that have been reported by the SSA as deceased. The CDA is required to review the report at least quarterly.

~~CDA Policy~~

~~The CDA will review the Deceased Tenants Report on a monthly basis.~~

When the Deceased Tenants Report identifies an individual as being deceased, or when the CDA receives information by other sources (e.g., reports from family or friends, presentation of an obituary), the CDA must ~~immediately~~ request confirmation of the death within 24 hours of being notified of the death of a household member. The CDA must document in the tenant record their attempts to confirm the death. Requests for confirmation may be sent by mail, email, and/or hand delivery to the head of household. If~~send a letter to the head of household or emergency contact person (if~~ the head of household is deceased and there ~~is~~are no other adult household member~~s)~~, the CDA will attempt to confirm the death with an emergency contact, if applicable~~to confirm the death of the listed household member.~~

Te CDA may provide families or emergency contacts 30 days to respond to the CDA request for written confirmation of death. If the family does not respond within 30 days, the CDA may presume that the information is accurate and proceed in removing the deceased tenant from the household.

In cases where the deceased individuals is the head of household, ~~T~~the CDA must notify the owner in writing of the deceased head of household.

For deceased single member households, the CDA must terminate the HAP to owner no later than the last day of the month in which the death occurred. After confirming the head of household's death, the CDA must submit a form HUD-5008 with an End of Participations (EOP) action.~~The CDA 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.

~~CDA Policy~~

~~The CDA 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.~~

If the deceased individual was the head of household and there are remaining family members who are eligible adults, the CDA must follow its administrative policies determine whether the family continues to receive assistance with a new head of household and designate who the new head of household will be.

CDA Policy

If the deceased individuals was the head of household and minor are the only remaining household members, the CDA will follow its policies regarding Caretakers for a Child in Section 6-I.B.

7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]

~~Overview~~Chapter 7.B; Section 7-II.G. contains current policies related to citizenship or eligible immigration status.

~~Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible people. A detailed discussion of eligibility requirements is in the Eligibility chapter. This verifications chapter discusses HUD and CDA verification requirements related to citizenship status.~~

~~The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously assisted occupancy. [24 CFR 5.508(g)(5)]~~

~~U.S. Citizens and Nationals~~

~~HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.~~

~~The CDA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.~~

~~CDA Policy~~

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

~~Eligible Immigrants~~

~~Documents Required~~

~~All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.~~

~~The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-1 at the end of this chapter summarizes documents family members must provide.~~

~~CDA Verification~~ ~~[HCV GB, pp. 5-3 and 5-7]~~

- ~~For family members aged 62 or older who claim to be eligible immigrants, proof of age is required~~

~~in the manner described in 7-II.C. of this plan. No further verification of eligible immigration status is required.~~

- ~~For family members under the age of 62 who claim to be eligible immigrants, the CDA must verify immigration status with the United States Citizenship and Immigration Services (USCIS).~~
- ~~The CDA will follow all USCIS protocols for verification of eligible immigration status.~~

Chapter 7.B.

VERIFICATION UNDER HOTMA 102/104

[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230, Notice PIH 2023-27]

INTRODUCTION

This chapter is applicable upon the CDA's HOTMA 102/104 compliance date effective January 1, 2027. Prior to this date, the CDA will follow policies as outlined in Chapter 7.A. of the Administrative Plan.

The CDA 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 CDA must not pass on the cost of verification to the family.

The CDA must follow the verification guidance provided by HUD in Notice PIH 2023-27 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary CDA 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 CDA.

PART I: GENERAL VERIFICATION REQUIREMENTS

7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 982.516; 24 CFR 982.551; 24 CFR 5.230; ~~and~~ Notice PIH 2023-27; and HOTMAquestions@HUD.gov response 9/15/25]

Consent Forms

The family must supply any information that the CDA or HUD determines is necessary to the administration of the program and must consent to CDA 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 the CDA must use form HUD-9886-A, this form does not release all the information necessary to the administration of the program. The CDA must also develop its own release forms to cover all other necessary information.

In addition, if the CDA chooses to distribute EIV reposts via mail, email, or other methods, it must ensure compliance with the Federal Privacy Act.

CDA Policy
At admission, the CDA will request that all adult family members (other than the head of household) sign consent forms stating that their EIV income information may be shared with the head of household. Adult family members with no such consent form on file will be requested to sign at annual reexamination.

If an adult family member other than the head of household fails to sign a consent form stating that their EIV income information may be shared with the head of household, the CDA will utilize EIV's "Print Household Member Information" feature to generate income reports addressed separately to each adult in the household. For example, if a household has two adults, the CDA will provide one report to the head of household and a separate report to the other adult member.

Refusal by an adult family member to sign a form granting permission to provide EIV information to the head of household is not grounds for denial or termination of assistance of either the individual or the family.

The executed form will remain effective until the family is denied assistance, the individual leaves the program, or the family member provides written notification to the CDA to revoke consent.

Form HUD-9886-A [24 CFR 5.230(b)(1), b(2), (c)(4), and (c)(5); and Notice PIH 2023-27]
All adult applicants and participants sign form HUD-9886-A, 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-A 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-A be signed only once. On or after January 1, 2024 ~~(regardless of the CDA's HOTMA compliance date)~~, current program participants ~~must~~ signed and submitted a new Form HUD-9886-A ~~at their next interim or annual reexamination~~. This form will only be signed once. Another Form HUD-9886-A will not be submitted to the CDA 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 CDA in administrative instructions.

The CDA has the discretion to establish policies around when family members must sign consent forms when they turn 18. CDAs must establish these policies stating when family members will be required to sign consent forms at intervals other than at reexamination.

CDA 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-A within 10 business days of turning 18 years of age.

The purpose of form HUD-9886-A 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 CDA may collect information from State Wage Information Collection Agencies (SWICAs) and

current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). The CDA must also develop its own release forms to cover all other information not covered by the form HUD-9886-A.

The CDA 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 CDA 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 CDA 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 CDA must deny admission to applicants and terminate assistance of participants. The family may request an informal review (applicants) or informal hearing (participants) in accordance with CDA 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 CDA to access financial records from financial institutions, unless the CDA establishes a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance [24 CFR 5.232(c)]. CDAs may not process interim or annual reexaminations of income without the family's executed consent forms.

CDA Policy
The CDA 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 CDA policy.

In order for a family to revoke their consent, the family must provide written notice to the CDA.

Within 10 business days of the date the family provides written notice, the CDA 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 CDA 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]
CDAs 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. ~~CDAs are not required to accept or use determinations of income from other federal means-tested forms of assistance.~~ If the CDA adopts a policy to accept this type of verification, the CDA must ~~establish~~include in policy when they will accept Safe Harbor income determinations and from which programs. CDAs must also create policies that outline the course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs.

7-I.C. STREAMLINED INCOME DETERMINATIONS [24 CFR 960.257(c); Notice PIH 2023-27]
HUD permits CDAs 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 CDA 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 CDA may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the CDA 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 CDA 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 CDAs may choose to adjust sources of non-fixed income based on third-party verification. CDAs 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, CDAs may apply a COLA to each of the family's sources of fixed income. CDAs must determine all other income using standard verification requirements as outlined in Notice PIH 2023-27.

CDA Policy

When the CDA does not use a Safe Harbor income determination from a federal assistance program to determine the family's annual income as outlined above, ~~then CDA will use a streamlined income determinations where applicable.~~

~~Regardless of the percentage of a family's unadjusted income from fixed income sources: The CDA will streamline the annual reexamination process by applying the verified COLA/inflationary adjustment factor to fixed-income sources.~~

~~The family will be required to sign a self-certification stating that their sources of fixed income have not changed from the previous year.~~

~~The CDA will document in the file how the determination that a source of income was fixed was made.~~

~~If the family's sources of fixed income have changed from the previous year, the CDA will obtain third-party verification of any new 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 CDA 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 the HUD-published threshold ($50,000 for 2024, and $51,600 for 2025);~~

~~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.~~

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.

CDA Policy
Except for when Safe Harbor verification from another means-tested federal assistance program is used to determine the family's annual income, the CDA will obtain an EIV Income Report for all annual reexaminations for ~~all~~ families ~~on a monthly basis~~ as part of the regular reexamination process. The CDA will ensure that all EIV Income Reports are pulled within 120 days of the effective date of the annual reexamination.

Income 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 reports will be retained in participant files with the applicable annual reexaminations documents or interim reexamination documents (if applicable) for the duration of the family's participation.

When the CDA 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.

The CDA must review this information at annual reexamination except when the CDA uses Safe Harbor verification from another means-tested federal assistance program to determine the family's income.

If the CDA does 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 CDA requires an interim for increases in earned income after an interim decrease, then the CDA must review the report quarterly after the family's interim decrease.

CDA Policy
In accordance with CDA policies in Chapter 11, the CDA does process interim reexaminations for families who have increases in earned income.

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 CDA is required to review the report at least quarterly.

CDA Policy
The CDA will review the Deceased Tenants Report on a monthly basis.

When the Deceased Tenants Report identifies an individual as being deceased, CDAs must immediately send a letter to the head of household, if the head of household is deceased and there is no other adult household member, to the ~~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 CDA must notify the owner in writing of the deceased head of household.

The CDA may list the End of Participation (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.

CDA Policy
The CDA 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 CDA 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 CDA is required to review the Multiple Subsidy Report at least quarterly and the Failed EIV Pre-Screening, ~~and~~ Failed Verification (Failed SSA Identity Test), and EIV Immigration reports at least monthly.

Upfront Income Verification Using Non-HUD Systems
In addition to mandatory use of the EIV system, HUD encourages CDAs to utilize other upfront verification sources.

CDA Policy
~~The CDA does not use any other UIV systems that require notification to applicants and participants.~~HUD's EIV system.

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 CDA 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.

CDA Policy

At annual reexamination, if the CDA 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 CDA will use EIV + self-certification as verification of employment income, provided the family agrees with the amounts listed in EIV.

The CDA will follow EIV security requirements as detailed in CDA policy in Section 7-I.A. Family Consent to Release of Information. If an adult family member other than the head of household fails to sign a consent form stating that their EIV income information may be shared with the head of household, the CDA will utilize EIV's "Print Household Member Information" feature to generate income reports addressed separately to each adult in the household. For example, if a household has two adults, the CDA will provide one report to the head of household and a separate report to the other adult member.

The CDA will use an average of the last two quarters of income listed in EIV to determine income from employment. The CDA will provide the adult family member with information in EIV. The family member 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 member disagrees with using only the last two quarters of income listed in EIV, because of the seasonal or otherwise fluctuating nature of ~~a particular~~that family member's employment, the CDA will permit the family member to sign a self-certification stating that the average of all four quarters of income listed in EIV is accurate and representative of current annual income and use that amount for calculating annual income. If the family member disagrees and contends that the amount listed in EIV is not reflective of current income, or if less than two quarters are available in EIV, the CDA will use written third-party verification from the source as outlined below.

The CDA 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.

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 the CDA 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].

CDA Policy

The CDA will not accept self-certification from a family as verifications of assets disposed of for less than fair market value.

7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]

Overview

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. A

detailed discussion of eligibility requirements is in the Eligibility chapter. This verifications chapter discusses HUD and CDA verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy. [24 CFR 5.508(g)(5)]

U.S. Citizens and Nationals
HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

The CDA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation. HUD strongly encourages the CDA to requires that families provide proof of citizenship by such means as birth certificates, naturalization certificates, passports, or other documentation [HUD Secretary Letter 12/16/25][.

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

Eligible Immigrants
Documents Required
All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-1 at the end of this chapter summarizes documents family members must provide.

CDA Verification [HCV GB, pp. 5-3 and 5-7, HUD Secretary Letter 12/16/25]
For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this plan. No further verification of eligible immigration status is required.

F~~or f~~amily members under the age of 62 who claim to be eligible immigrants~~,~~ must provide supporting documentation of their immigration status and sign a verification consent form. Supporting documentation consists of documentation accepted by the U.S. Citizenship and Immigration Services (USCIS)-for example, a Form-I-551-U.S. Permanent Resident Card.

~~t~~The CDA must verify immigration status with the United States Citizenship and Immigration Services (USCIS). The primary method for verifying eligible immigrations status is USCIS's automated system, Systemic Alien Verification for Entitlements (SAVE). The CDA must determine whether the applicant's status makes them eligible for assistance consistent with Section 214. Exhibit 7-2 at the of the chapter provides information on eligibility for HUD assistance.

Where applicable, the CDA must retain documentation of SAVE verification in tenant files. If SAVE

cannot confirm an individual's eligible immigration status, or if the response in SAVE verifies an immigration status that is not eligible for assistance, then the CDA must submit a request for secondary or additional verification to USCIS within 10 days of receiving the initial results. The CDA must scan and upload information to USCIS as needed or required to obtain a verification response.
If the secondary or additional verification fails, the CDA must notify the family and inform them of their right to file an appeal with USCIS. If the family wishes to exercise their right to file an appeal with USCIS, they must submit a written request to USCIS within 30 days of the notification. USCIS will render a decision to the family and forward a copy to the CDA.

Assistance must be denied when primary and secondary verification do not verify eligible immigration status and the family does not pursue a USCIS appeal or informal hearing rights, or decisions are rendered against the family through a USCIS appeal or informal hearing.

The CDA must not delay, deny, reduce, or terminate assistance because of a delay in the process of determining eligible status, unless the family causes the delay. While the CDA may not admit any individual prior to receiving required documentation, the CDA may elect to provide prorated assistance to the family prior to completing the verification process.
~~The CDA will follow all USCIS protocols for verification of eligible immigration status.~~

Family members who do not sign a declaration of their status or provide the required supporting documentation will be considered ineligible for housing assistance. The head of household must sign a statement listing all family members who do not claim to be citizens, nationals, or eligible immigrans, or whose status cannot be confirmed [HUD Secretary Letter 12/16/25].

7-III.L. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9)]

The regulations under HOTMA distinguish between two categories of student financial assistance paid to both full-time and part-time students. **Assistance received under Section 479B of the Higher Education Act (HEA) is excluded.** Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education not otherwise excluded by the federally mandated income exclusions are included [24 CFR 5.609(b)(9)(ii)].

CDA Policy

The CDA 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 CDA 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. The CDA will not request verification of actual covered costs when the student's only source of assistance falls under Title IV of the HEA.

If the CDA is unable to obtain third-party written verification of the requested information, the CDA will pursue other forms of verification following the verification hierarchy in section 7-I.B.

EXHIBIT 7-1: SUMMARY OF DOCUMENTATION REQUIREMENTS FOR NONCITIZENS [HCV GB, pp. 5-9 and 5-10]

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

Elderly Noncitizens

- A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.

All other Noncitizens

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

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

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

- A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant's entitlement to the document has been verified; or
- Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register*

EXHIBIT 7-2: SAVE System Responses and Section 214 Eligibility for HUD Assistance [HUD Secretary Letter 12/16/25]

Eligible for Assistance

- United States Citizen;
- Lawful Permanent Resident (LPR) – Employment Authorized;
- Lawful Permanent Resident (LPR) – Employment Authorized Indefinitely;
- Conditional Resident – Employment Authorized;
- Conditional Resident;
- Conditional Entrant – Employment Authorized Indefinitely;
- Parolee;
- Parolee Indefinite – Not Employment Authorized;
- Parolee Indefinite – Temporary Employee Authorized;
- Parolee Expires – Not Employment Authorized;
- Parolee Expires – Temporary Employment Authorized;
- Refugee – Employment Authorized;
- Refugee – Employment Authorized – Indefinite;
- Asylee – Employment Authorized;
- Asylee – Employment Authorized – Indefinite;
- Family Unity -Temporary Employment Authorized;
- Non-Immigrant Employment Authorized – Indefinite;
    - Non-immigrants who are citizens of either the Federated States of Micronesia, the Republic of the Marhsall Islands, or Palau
- Cuban/Haitian Entrant;
- No Status – Granted Withholding of Removal – Employment Authorized Indefinitely;
- Violence Against Women Act (VAWA) – Self-Petitioner – Temporary Employment Authorized;
- VAWA Self-Petitioner; and
- VAWA Self-Petitioner – Not Employment Authorized.

Ineligible for Assistance

- Non-Immigrant
- Non-Immigrant – Temporary Employment Authorized;
  Non-Immigrant – Temporary Employment Authorized – Indefinite;
- Non-Immigrant – Not Employment Authorized;
- Non-Immigrant – Employment Authorized CNMI Only;
- Student Status Temporary Authorized;
- If Principal – Temporary Employment Authorized;
- If Principal or Spouse – Temporary Employment Authorized;
- Temporary Resident – Temporary Employment Authorized;
- Deferred Action for Childhood Arrivals (DACA) – Employment Authorized;
- Temporary Protected Status (TPS) – Employment Authorized;
- Application Pending (Form I-589 Asylum);
- Application Pending (Form I-485 Adjustment of Status) – Temporary Employment Authorized;
- Application Pending;
- Application Pending – Temporary Employment Authorization;
- Application Pending – Not Temporary Employment Authorization;
- Deferred Action Status (DAS);
- Deferred Action Status (DAS) – Not Employment Authorized;
- Deferred Enforced Departure (DED); and
- No Status;
- No Status – Released on an Order of Supervision – Temporary Employment Authorized;
- No Status – Employment Authorized Indefinitely; and
  No Status Temporary Employment Authorized.

If more information is required to classify the individual's immigration status, following up with DHS and/or the individual may be necessary.

- Immigration Enumerator Required – Resubmit with Additional Information;
- Institute Additional Verification;
- Institute Third Level Verification;
- No Record Found with SSA – Resubmit with Additional Information;
- Temporary Employment Authorized;
- Resubmit Doc;
- Verification in Process;
- Continue to Process;
- Unable to Process;
- Null;
- Expired Document;
- Document Appears to be Altered; and
- Document Appears to be Counterfeit

CHAPTER 8

HOUSING QUALITY STANDARDS AND RENT REASONABLENESS DETERMINATIONS

[24 CFR 982 Subpart I and 24 CFR 982.507]

INTRODUCTION

Owners must maintain all units occupied by families receiving Housing Choice Voucher (HCV) assistance in accordance with housing quality standards. Units assisted under the program must comply with HUD's National Standards for the Physical Inspection of Real Estate (NSPIRE) regulations and standards no later than February 1, 2027. Until such time, the CDA may continue using the HQS inspection standards.

~~HUD requires that all units occupied by families receiving Housing Choice Voucher (HCV) assistance meet HUD's Housing Quality Standards (HQS) and permits the CDA to establish additional requirements. The use of the term "HQS" in this plan refers to the combination of both HUD and CDA-established requirements.~~

All units must pass an HQS inspection prior to the approval of a lease and at least once every 24 months during the term of the contract, and at other times as needed, to determine that the units meet HQS.

HUD also requires the CDA to determine that rents for units under the program are reasonable when compared to comparable unassisted units in the market area.

This chapter explains HUD and CDA requirements related to housing quality and rent reasonableness as follows:

> Part I. Physical Standards. This part discusses the physical standards required of units occupied by HCV-assisted families and identifies decisions about the acceptability of the unit that may be made by the family based upon the family's preference. It also identifies life-threatening conditions that must be addressed on an expedited basis.
>
> Part II. The Inspection Process. This part describes the types of inspections the CDA will make and the steps that will be taken when units do not meet HQS.
>
> Part III. Rent Reasonableness Determinations. This part discusses the policies the CDA will use to make rent reasonableness determinations.

Special HQS requirements for homeownership, manufactured homes, and other special housing types are discussed in Chapter 15 to the extent that they apply in this jurisdiction.

NSPIRE and HQS

Even once the HQS inspection standard has sunset, the regulations at 24 CFR Part 982 and 983 governing the HCV and PBV programs will continue to use the terms *HQS* and *housing quality standards* rather than *NSPIRE*. This is because the definition of *housing quality standards (HQS)* at 24 CFR 982.4 means the minimum quality standards developed by HUD in accordance with 24 CFR 5.703 for the HCV program, including any variations approved by HUD for the CDA. As such, the administrative plan uses the term *housing quality standards* whenever applicable regulations use this term. Except in the chapter describing HQS, the acronym *HQS* is not used order to avoid confusion between the umbrella term meaning housing standards and the specific inspection protocol. The aministrative plan will only uses the

term *NSPIRE* when referring to specific NSPIRE standards.

PART I: PHYSICAL STANDARDS

8-I.A. GENERAL HUD REQUIREMENTS

HUD Performance and Acceptability Standards

HUD's performance and acceptability standards for HCV-assisted housing are provided in 24 CFR 982.401. These standards cover the following areas:

- Sanitary facilities
- Food preparation and refuse disposal
- Space and Security
- Thermal Environment
- Illumination and electricity
- Structure and materials
- Interior Air Quality
- Water Supply
- Lead-based paint
- Access
- Site and neighborhood
- Sanitary condition
- ~~Smoke and Carbon Monoxide Detectors~~

A summary of HUD performance criteria is provided in Exhibit 8-1. Additional guidance on these requirements is found in the following HUD resources:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)
- HUD Notice 2003-31, Accessibility Notice: Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Architectural Barriers Act of 1968 and the Fair Housing Act of 1988.

NSPIRE Standards Applicable to HQS [HUD Letter 6/14/24 and PIH 2024-26, REV-1]

Even if the CDA is still under the HQS inspection standard, the CDA must apply the following requirements under NSPIRE:

- The NSPIRE standards for carbon monoxide detectors and smoke alarms are currently applicable even if the CDA has not yet transitioned to NSPIRE;
- The Visual Assessment Standard for Potential Lead-Based Paint Hazard in 24 CFR Part 35 Subparts M and H apply.

The carbon monoxide detectors requirement took effect and became an inspectable item on December 27, 2022. The CDA may directly follow the NSPIRE Carbon Monoxide standard or see Notice PIH 2022-01 for additional guidance on this requirement.

For smoke alarms, the CDA is already required to comply with the Federal Fire Safety Act of 1992 and keep HQS inspections current with the National Fire Protection Association (NFPA) Standards. As of December 29, 2024, all smoke alarms must be either hard wired or sealed, 10-year battery devices.

PHAs that opt to retain HQS can continue to utilize previous HQS definitions and guidance, provided they are also in compliance with the above requirements.

~~**8-I.D. OWNER AND FAMILY RESPONSIBILITIES [24 CFR 982.404]**~~

~~**Family Responsibilities**~~

~~The family is responsible for correcting the following HQS deficiencies:~~

- ~~Tenant-paid utilities not in service~~
- ~~Failure to provide or maintain appliances owned by the family~~
- ~~Damage to the unit or premises caused by a household member or guest beyond normal wear and tear that results in a breach of the HQS. "Normal wear and tear" is defined as items which could not be charged against the tenant's security deposit under state law or court practice.~~

Owner Responsibilities

The owner must maintain the unit in accordance with housing quality standards. A unit is not in compliance with housing quality standards if the CDA or other inspector authorized by the state or local government determines that the unit has housing quality standards deficiencies based upon an inspection, notifies the owner in writing of the deficiencies, and the deficiencies are not remedied within the appropriate time frame.

~~The owner is responsible for all HQS violations not listed as a family responsibility above, even if the violation is caused by the family's living habits (e.g., vermin infestation). However, if the family's actions constitute a serious or repeated lease violation the owner may take legal action to evict the family.~~

8-III.B. WHEN RENT REASONABLENESS DETERMINATIONS ARE REQUIRED

Owner-Initiated Rent Determinations

The CDA must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment.

The owner and family first negotiate the rent for a unit. The CDA (or independent agency in the case of CDA-owned units) will assist the family with the negotiations upon request. At initial occupancy, the CDA must determine whether the proposed rent is reasonable before a HAP Contract is signed. The owner must not change the rent during the initial lease term. Subsequent requests for rent adjustments must be consistent with the lease between the owner and the family. ~~Rent increases will not be approved unless any failed items identified by the most recent HQS inspection have been corrected.~~

CDA Policy

The CDA requires owners and families to maintain a lease agreement throughout tenancy. Changes in rent may be requested by the owner with 60 days' notice to the CDA and the tenant at

that time.

CDA- and HUD-Initiated Rent Reasonableness Determinations

HUD requires the CDA to make a determination of rent reasonableness (even if the owner has not requested a change) if there is a 10 percent decrease in the fair market rent that goes into effect at least 60 days before the contract anniversary date. HUD may also direct the CDA to make a determination at any other time. The CDA may decide that a new determination of rent reasonableness is needed at any time.

CDA Policy

In addition to the instances described above, the CDA will make a determination of rent reasonableness at any time after the initial occupancy period if: (1) the CDA determines that the initial rent reasonableness determination was in error or (2) the CDA determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

LIHTC- and HOME-Assisted Units [24 CFR 982.507(c)]

For units receiving low-income housing tax credits (LIHTCs) or units assisted under HUD's HOME Investment Partnerships (HOME) Program, a rent comparison with unassisted units is not required if the voucher rent does not exceed the rent for other LIHTC- or HOME-assisted units in the project that are not occupied by families with tenant-based assistance.

For LIHTCs, if the rent requested by the owner does exceed the LIHTC rents for non-voucher families, the CDA must perform a rent comparability study in accordance with program regulations. In such cases, the rent shall not exceed the lesser of: (1) the reasonable rent as determined from the rent comparability study; or (2) the payment standard established by the CDA for the unit size involved.

8-III.C. HOW COMPARABILITY IS ESTABLISHED

Factors to Consider

HUD requires the CDA to take into consideration the factors listed below when determining rent comparability. The CDA may use these factors to make upward or downward adjustments to the rents of comparison units when the units are not identical to the HCV-assisted unit.

- Location and age
- Unit size including the number of rooms and square footage of rooms
- The type of unit including construction type (e.g., single family, duplex, garden, low-rise, high-rise)
- The quality of the units including the quality of the original construction, maintenance and improvements made
- Amenities, services, and utilities included in the rent

Units that Must Not be Used as Comparable

Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that imposes rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: Section 8 project-based assistance, Section 236 and Section 221(d)(3) Below Market Interest Rate (BMIR) projects, HOME or Community Development Block Grant (CDBG) program-assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits; units subsidized by the Department of Agriculture rural housing programs, and units that are rent-controlled by local ordinance. [Notice PIH

2002-22, Notice PIH 2005-20, and Notice PIH 2020-19].

Units for which the owner has decided of his or her own decision to charge rents that are below what other tenants are charged and what the market might bear are not assisted units for purposes of rent reasonableness determinations. Rents for these units in the property must be considered to establish if an HCV rent to owner is reasonable.

In addition to HUD assisted units, the following units are also considered to be assisted units and must not be used as a comparable:

- Units where the rents and/or rent increases are controlled or restricted by law or a court order, so long as the law or court order does not apply to voucher participants. The CDA is responsible for verifying the existence and applicability of the law or court order prior to excluding the units from the rent reasonableness determination.
- In cases of a property undergoing a Housing Conversion Action, units occupied by tenants on the date of the eligibility event who do not receive vouchers are considered assisted if the owner chooses to continue below market rents to those families by offering lower rents or other rent concessions to the impacted families. If the owner of such a property intends to charge lower rents to the non-voucher tenants at the time of conversion, the owner must provide written notice to the CDA and a list of the covered families, a description of the concession, the duration of the lower rents or concessions, the units in which the families are residing and copies of the families' leases. This applies to both new conversions and prior actions.
- ***Note:*** Notice PIH 2020-19, issued August 21, 2020, provides further guidance on the issue of what constitutes an assisted unit.

Rents Charged for Other Units on the Premises

The Request for Tenancy Approval (HUD-52517) requires owners to provide information, on the form itself, about the rent charged for other unassisted comparable units on the premises if the premises include more than 4 units.

By accepting the CDA payment each month the owner certifies that the rent is not more than the rent charged for comparable unassisted units on the premises. If asked to do so, the owner must give the CDA information regarding rents charged for other units on the premises.

8-III.D. CDA RENT REASONABLENESS METHODOLOGY

How Market Data Is Collected

CDA Policy

The CDA will collect and maintain data on market rents in the CDA's jurisdiction. Information sources include newspapers, realtors, market surveys, online rental information (vacancy listings, CoStar, and HousingLink) inquiries of owners and other available sources. The data will be maintained by bedroom size and market areas. Market areas may be defined by zip codes, census tract and zones. The data will be updated on an ongoing basis and rent information that is more than 24 months old will be eliminated from the database.

How Rents Are Determined

CDA Policy

The rent for a unit proposed for HCV assistance will be compared to the rent charged for comparable units in the same market area. The CDA will develop a range of prices for comparable

units by bedroom size within defined market areas. Units proposed for HCV assistance will be compared to the units within this rent range. Because units may be similar, but not exactly like the unit proposed for HCV assistance, the CDA may make adjustment to the range of prices to account for these differences.

The adjustment must reflect the local market. Not all differences in units require adjustments (e.g., the presence or absence of a garbage disposal may not affect the rent in some market areas).

Adjustments may vary by unit type (e.g., a second bathroom may be more valuable in a three-bedroom unit than in a two-bedroom).

The adjustment must reflect the rental value of the difference – not its construction costs (e.g., it might cost $20,000 to put on a new roof, but the new roof might not make any difference in what a tenant would be willing to pay because rental units are presumed to have functioning roofs).

When a comparable project offers rent concessions (e.g., first month rent-free, or reduced rent) reported monthly rents will be adjusted accordingly. For example, if a comparable project reports rents of $500/month but new tenants receive the first month's rent free, the actual rent for the unit would be calculated as follows: $500 x 11 months = 5500/12 months = actual monthly rent of $488.

The CDA will notify the owner of the rent the CDA can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. The CDA will confirm the accuracy of the information provided and consider this additional information when making rent determinations. The owner must submit any additional information within 5 business days of the CDA’s request for information or the owner’s request to submit information.

EXHIBIT 8-1: OVERVIEW OF HUD HOUSING QUALITY STANDARDS

Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standard (NFPA) 74 (or its successor standards). If the dwelling unit is occupied by any person with a hearing impairment, smoke detectors must have an appropriate alarm system as specified in NFPA 74 (or successor standards). As of December 29, 2024, all smoke alarms must be either hard-wired or sealed, 10-year battery devices.

9-I.E. CDA LEASING ASSISTANCE FOR FAMILIES (Notice PIH 2022-18)

The CDA may utilize its Unrestricted net Position (UNP, or administrative fee reserves) or ongoing administrative fees toward activities designed to help assist HCV families in leasing units under the program. Such activities include providing security deposit assistance, utility deposit assistance, assisting with all or some of the application fee or similar fees, and holding fees.

CDA Policy

The CDA will not utilize UNP or ongoing administrative fees to pay security deposits, utility deposits, assist with application or similar fees, or holding fees.

9-I.~~G~~H. HAP CONTRACT EXECUTION [24 CFR 982.305]

The HAP contract is a written agreement between the CDA and the owner of the dwelling unit. Under the HAP contract, the CDA agrees to make housing assistance payments to the owner on behalf of the family, and the owner agrees to comply with all program requirements as stated in the HAP contract.

The HAP contract form is prescribed by HUD.

If the CDA has given approval for the family of the assisted tenancy, the owner and the CDA must execute the HAP contract.

The term of the HAP contract must be the same as the term of the lease [24 CFR 982.451(a)(2)].

The CDA is permitted to execute a HAP contract even if the funding currently available does not extend for the full term of the HAP contract.

The CDA must make its best effort to ensure that the HAP contract is executed before the beginning of the lease term. Regardless, the HAP contract must be executed no later than 60 calendar days from the beginning of the lease term. Any HAP contract executed after the 60-day period is void, and the CDA may not pay any housing assistance payment to the owner, unless there are extenuating circumstances that prevent or prevented the CDA from meeting the 60-day deadline then the CDA may submit to the HUD field office a request for an extension no later than two weeks after the 60-day deadline.

The CDA may not pay any housing assistance payment to the owner until the HAP contract has been executed. If the HAP contract is executed during the period of 60 calendar days from the beginning of the lease term, the CDA will pay housing assistance payments after execution of the HAP contract (in accordance with the terms of the HAP contract), to cover the portion of the lease term before execution of the HAP contract (a maximum of 60 days).

Any HAP contract executed after the 60-day period is void, and the CDA may not pay any housing assistance payment to the owner unless there are extenuating circumstances that prevent or prevented the CDA from meeting the 60-day deadline, in which case the CDA may submit to the HUD field office a request for an extension. The request, which must be submitted no later than two weeks after the 60-day deadline, must include an explanation of the extenuating circumstances and any supporting documentation. HUD at its sole discretion will determine if the extension request is approved.

CHAPTER 11.A.

REEXAMINATIONS

PART I: ANNUAL REEXAMINATIONS [24 CFR 982.516]

~~11-I.B. STREAMLINED ANNUAL REEXAMINATIONS [24 CFR 982.516(b); New HCV GB, Reexaminations]~~

~~HUD permits the CDA 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 CDA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or rate of interest. The CDA may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the CDA 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 CDA 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 CDA may streamline the verification of fixed income and must verify non-fixed income annually.~~

> ~~CDA Policy~~
> ~~The CDA will streamline the annual reexamination process by applying the verified COLA or interest rate to fixed-income sources. The CDA 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 CDA 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 CDA 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-II.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because the CDA has reason to believe that

changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, the CDA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

CDA-~~Initiated~~Required Interim Reexaminations

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

CDA Policy

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

- For any change in family composition.
- ~~For families receiving the Earned Income Disallowance (EID), the CDA will conduct an interim reexamination at the start and conclusion of the 24-month eligibility period.~~
- If the family has reported zero income, the CDA will conduct an interim reexamination every 3 months if 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 CDA will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.
- The CDA 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 CDA must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 982.516(c)]. In addition, HUD regulations require that the CDA conduct an interim within a reasonable time any time the family requests, due to a change in income or family composition since the last determination ~~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~~c)(2)].

Required Reporting

Chapter 11.B.

REEXAMINATIONS UNDER HOTMA 102/104

INTRODUCTION

This chapter is applicable upon the CDA's HOTMA 102/104 compliance date, effective January 1, 2027. Prior to this date, the CDA will follow policies as outlined in Chapter 11.A. of the Administrative Plan ~~of the model policy~~.

The CDA 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 CDA 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: Non-Interim Reexamination Transaction: This part describes transactions that do not entail changes to the family's adjusted income.

Part IV~~II~~: 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.

Notification of and Participation in the Annual Reexamination Process

The CDA is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the CDA. However, CDAs should give tenants who were not provided the opportunity the option to complete Form HUD-92006 at this time [Notice PIH 2009-36].

CDA Policy

The CDA will conduct annual recertifications through an online process.

Families will participate in the annual recertification process through an online portal.

The application package will include forms for the family to complete and instructions on what documents must be provided to the CDA to complete the annual recertification process.

If the family fails to complete the application package, the family will be provided with a second opportunity to complete this process. If the family fails to return the application package and the necessary documents required for recertification by the required deadline, the CDA will send a notice a termination of assistance.

~~Families generally are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, or cohead. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact the CDA to request a reasonable accommodation (see Chapter 2).~~

~~Notification of annual reexamination interviews will be sent by first-class mail and will contain the date, time, and location of the interview. In addition, it will inform the family of the information and documentation that must be brought to the interview.~~

~~If the family is unable to attend a scheduled interview, the family should contact the CDA in advance of the interview to schedule a new appointment. If a family does not attend the scheduled interview, the CDA will send a second notification with a new interview date and appointment time.~~

~~If a family fails to attend two scheduled interviews without CDA approval, or if the notice is returned by the post office with no forwarding address, a notice of termination (see Chapter 12) will be sent to the family's address of record, and to any alternate address provided in the family's file.~~

~~An advocate, interpreter, or other assistant may assist the family in the interview process. The family and the CDA must execute a certification attesting to the role and the assistance provided by any such third party.~~

11-I.C. CONDUCTING ANNUAL REEXAMINATIONS

As part of the annual reexamination process, families are required to provide updated information to the CDA regarding the family's income, expenses, and composition [24 CFR 982.551(b)].

CDA Policy

Families will be asked to provide all required information (as described in the reexamination notice) via the CDA's online portal, email, or returned to the CDA office. The required information will include a CDA-designated reexamination application form, and Applicant Tenant Certification, and Statement of Responsibilities as well as supporting documents or forms related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time of the the application submission must be provided within 10 business days. The CDA will attempt to collect this information from the participant two times. If the family does not provide the required documents or information within the required time period (plus any extensions), the family will be sent a notice of termination (See Chapter 12).

~~Families will be asked to provide all required information (as described in the reexamination notice) at the in-person reexamination appointment or returned to the CDA office. The required information will include a CDA-designated reexamination application form, and Applicant Tenant Certification, and Statement of Responsibilities as well as supporting documents or forms related to the family's income, expenses, and family composition.~~

~~Any required documents or information that the family is unable to provide at the time of the interview must be provided within 10 business days of the interview. The CDA will attempt to collect this information from the participant two times. If the family does not provide the required documents or information within the required time period (plus any extensions), the family will be sent a notice of termination (See Chapter 12).~~

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 CDA policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances the CDA must process interim reexaminations to reflect those changes.

A family may request an interim determination of family income or composition because of any changes since the last determination. The CDA must conduct any interim reexamination within a reasonable period of time after the family request or when the CDA 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 CDA generally should conduct the interim reexamination not longer than 30 days after the CDA 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 CDA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income and household composition.

HUD recommends as a best practice that the CDA maintains documentation of all reported changes in the family's file, including those that did not reulst in an interim reexamination.

11-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

Reporting

CDAs must require families to report household composition changes; however, CDAs determine the timeframe in which reporting happens [Notice PIH 2023-27]. The CDA 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)].

CDA Policy

The family must inform the CDA of the birth, adoption, or court-awarded custody of a child within 30 calendar days. The family must disclose and provide documentation of the child's SSN within 90 days of birth or custody award.

Conducting Interims [Notice PIH 2023-27]

The CDA must conduct interim reexaminations when a household adds or removes household members, including family members, foster adults, foster children, and live-in aides. An interim reexamination is processed to add the new member regardless of whether the change results in a decrease, increase, or no change in the family's annual adjusted income.

The exception to this policy is if, during the last three months of the family's recertification period, the family is adding or removing household members and the change would require an interim reexamination for an increase in the family's adjusted income, and the CDA has a written policy not to conduct interim reexaminations under these circumstances, then the CDA is not required to conduct an interim reexamination. If the CDA policy allows for this, the CDA would instead include the change in household composition (and any related changes to income or allowances) at

the family's next annual reexamination. A non-interim reexam transaction is not submitted in this case.

CDA Policy
The PHA will conduct an interim reexamination when a family has a change in family composition within three months of the annual reexamination effective date.

Otherwise, interim reexaminations are always conducted for changes in household composition. Changes to the household's adjusted income are processed as follows:

- When the addition or removal of a household member changes the deductions for which the family qualifies, the CDA processes the interim increase or decrease regardless of the amount of the change.
- When a household member is added who has earned income that would cause the household's adjusted income to increase, the CDA must not consider increases in earned income, unless the family has previously received an interim reduction during the same reexamination cycle, and CDA policy allows for an interim reexamination in this circumstance. If the increase is not considered, then an interim reexamination is processed to add the new member, but their income is not added until the family's next annual reexamination.

  CDA Policy
  When a household member is added who has earned income that would cause the household's adjusted income to increase between annual reexaminations, the CDA 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 CDA will process an interim to add the new member, but their income will not be added until the family's next annual reexamination.
- When a new household member is added who has unearned income, the CDA must process an interim reexamination regardless of the amount of the increase.
- When a new household member is added who has both earned and unearned income, the CDA must not consider increases in earned income, unless the family has previously received an interim reduction during the same reexamination cycle, and CDA policy allows for an interim reexamination in this circumstance. For the unearned income, the CDA processes the interim increase regardless of the amount of the increase.

New Family Members Not Requiring CDA Approval
The addition of a family member as a result of birth, adoption, or court-awarded custody does not require CDA approval. However, the family is required to promptly notify the CDA of the addition [24 CFR 982.551(h)(2)].

New Family and Household Members Requiring Approval
With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request CDA approval to add a new family member [24 CFR 982.551(h)(2)] or other household member (live-in aide or foster child) [24 CFR 982.551(h)(4)].

~~Although the CDA must verify aspects of program eligibility when any new family member is added, the Streamlining Final Rule removed the requirement that CDAs conduct a reexamination~~

~~of income whenever a new family member is added. The CDA may state in policy that an income reexamination will be conducted.~~

If a change in family size causes a violation of space standards (see Chapter 8), the CDA must issue the family a new voucher, and the family and CDA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the CDA must terminate the family's HAP contract in accordance with its terms [24 CFR 982.403].

CDA Policy

Families must request CDA approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 15 days within a 12-month period, and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by the CDA *prior* to the individual moving into the unit.

Requests to add children as family members who require CDA approval will be reviewed on a case-by-case basis. The CDA will consider the stability and longevity of the situation.

CDA approval will be contingent on the availability of funds to serve a larger household.

The CDA will not approve the addition of a new family or household member unless the individual meets the CDA's eligibility criteria (see Chapter 3) and documentation requirements (see Chapter 7, Part II).

The CDA will not approve the addition of a foster child or foster adult if it would result in overcrowding of th existing unit. If the authorized placement agency (e.g., public child welfare agency) requires that the foster child have a separate bedroom, the CDA will provide the subsidy standard for one additional bedroom, in accordance with 5-II.B.

~~The CDA will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space standards.~~

If the CDA determines an individual meets the CDA's eligibility criteria and documentation requirements, the CDA will provide written approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to HQS standards, the approval letter will explain that the family will be issued another voucher and will be required to move.

If the CDA determines that an individual does not meet the CDA's eligibility criteria or documentation requirements, the CDA will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

The CDA will make its determination within 10 business days of receiving all information required to verify the individual's eligibility.

Departure of a Family or Household Member

Families must promptly notify the CDA if any household member no longer lives in the unit [24 CFR 982.551(h)(3)]. Because household members are considered when determining the family unit (voucher) size [24 CFR 982.402], the CDA also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit. The CDA must process an interim for all decreases in adjusted income when a family member permanently moves out of the unit.

CDA Policy

If a household member ceases to reside in the unit, the family must inform the CDA in

writing within 30 calendar days. This requirement also applies to a family member who has been considered temporarily absent at the point that the family concludes the individual is permanently absent.

11-II.C. CHANGES AFFECTING INCOME OR EXPENSES

Overview

Interim reexaminations for changes in income or expenses may be scheduled either because the CDA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change.

The CDA 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 CDA may decline to conduct an interim reexamination if the CDA estimates the family's adjusted income will decrease by an amount that is less than 10 percent of the family's adjusted income, with the exception of circumstances in which household members are added or removed, as discussed in Section 11-II.B. The CDA may set a lower threshold in CDA policy such as performing an interim for any decreases in adjusted income, although HUD prohibits the CDA from setting a dollar-figure threshold The CDA must conduct an interim reexamination when a family's annual adjusted income has changed by an amount that the CDA estimates will result in a decrease of 10 percent or more in annual adjusted income. In addition to decreases in family income, increases in a family's deductions may produce a significant decrease in annual adjusted income to require an interim reexamination.

~~However, while the CDA has some discretion, HUD requires that the CDA 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 CDA 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 CDA 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.~~

Failure of Students to Meet Ongoing Eligibility Requirements [24 CFR 982.552(b)(5) and FR 4/10/06]

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have dependent children, is not residing with their parents in an HCV assisted household, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the CDA must the terminate the student's assistance if, at the time of reexamination,

either the student's income or the income of the student's parents (if applicable) exceeds the applicable income limit.

If a participant household consists of both eligible and ineligible students, the eligible students shall not be terminated, but must be issued a voucher to move with continued assistance in accordance with program regulations and CDA policies or must be given the opportunity to lease in place if the terminated ineligible student members elect to move out of the assisted unit.

Death of the Sole Family Member [~~24 CFR 982.311(d),~~ Notice PIH 2026-11~~2010-9~~]

~~The CDA must immediately terminate program assistance for deceased single member households.~~ For deceased single-member households, the CDA must terminate the HAP to owner no later than the last day of the month in which the death occurred. HAP remitted for any month following the month in which the death occurred are considered HAP overpayments. After confirming the head of household's death, the CDA must submit an End of Participation (EOP) Form HUD-50058 with the EOP date listed as the last day of the month in which the death occurred. The CDA is required to submit the Form HUD-50058 no later than 60 calendar days from the effective date of the action. In cases where there is a delay between the death of an individual and when the death is reported in EIV, the CDA must submit an updated Form HUD-50058 no later than 60 days from the date EIV received the death information. The owner is entitled to receive the full HAP amount for the month in which the tenant death occurred.

Family Absence from the Unit [24 CFR 982.312]

The family may be absent from the unit for brief periods. The PCD~~H~~A must establish a policy on how long the family may be absent from the assisted unit. However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days for any reason. *Absence* in this context means that no member of the family is residing in the unit. At its discretion, the CDA may allow absence for a lesser period in accordance with CDA policy. Housing assistance payments terminate if the family is absent for longer than the maximum period permitted. The term of the HAP contract and assisted lease also terminate. The owner must reimburse the CDA for any housing assistance payment for the period after the termination.

The family must supply any information or certification requested by the CDA to verify that the family is residing in the unit or relating to family absence from the unit. The family must cooperate with the CDA for this purpose. The family must promptly notify the CDA of absence from the unit, including any information requested on the purposes of family absences.

The CDA may adopt appropriate techniques to verify family occupancy or absence, including letters to the family at the unit, phone calls, visits, or questions to the landlord or neighbors.

The CDA administrative plan must state the CDA policies on family absence from the dwelling unit. The CDA absence policy includes how the CDA determines whether or when the family may be absent, and for how long; and any provision for resumption of assistance after an absence, including readmission or resumption of assistance to the family.

~~***Family Absence from the Unit [24 CFR 982.312]***~~

~~The family may be absent from the unit for brief periods. The CDA must establish a policy on how long the family may be absent from the assisted unit. However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days for any reason. Absence in this context means that no member of the family is residing in the unit.~~

CDA Policy

Except as a reasonable accommodation to a disability, no family (any member) may be absent from the unit for more than 30 consecutive days. If the family (any member) is absent from the unit for more than 30 consecutive calendar days, the family's assistance may be terminated. Notice of termination will be sent in accordance with Section 12-II.F. A reasonable accommodation for a person with a disability may be requested for an exception to this policy.

When requesting a reasonable accommodation to a disability a written request should be submitted to the CDA at a minimum of 30 days prior to the absence when absence is planned.

To obtain CDA approval, the family must:

1. Satisfy notice requirements;
2. Provide documentation acceptable to the CDA regarding the length of absence and the reason for the absence;
3. Affirm their intent to return to the unit at the end of the leave period;
4. Agree to be responsible for receiving and responding to all notices sent by the CDA to the unit during periods of absence;
5. Pay rent to the owner and pay for utilities while they are absent, and
6. Make arrangements for the unit to be available for CDA inspections as necessary.

In some instances, it may be reasonable to consider an absence greater than 30 days, for a household member that is not disabled. These requests will require the following:

- Approval prior to the absence;
- Household income will not be adjusted as a result of the temporary absence;
- If during the absence the HUD-mandated annual reexamination is due, and the absent member is an adult, they will be removed to allow the CDA to complete this program requirement. If this removal results in a change to the voucher size, the household will be notified about this change.

If these procedures are not followed, the unit will be considered abandoned and the CDA will terminate housing assistance payments and the family's participation in the program.

~~PHA Policy~~

~~If the family is absent from the unit for more than 180 consecutive calendar days, the family's assistance will be terminated. Notice of termination will be sent in accordance with Section 12-II.F.~~

12-I.E. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS

Mandatory Policies [24 CFR 982.553(b) and 982.551(l)]

HUD requires the CDA to establish policies that permit the CDA to terminate assistance if the CDA determines that:

- Any household member is currently engaged in any illegal use of a drug or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

- Any household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.
- Any household member has violated the family's obligation not to engage in any drug-related criminal activity.
- Any household member has violated the family's obligation not to engage in violent criminal activity.

Use of Illegal Drugs and Alcohol Abuse

CDA Policy

- The CDA will terminate a family's assistance if any household member is currently engaged in any illegal use and/or possession of a drug or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.
- The CDA will terminate assistance if any household member's abuse or have a pattern of abuse of alcohol which threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.
    - *Currently engaged in* is defined as any use of illegal drugs during the previous twelve months.

The CDA will consider all credible evidence, including but not limited to, any record of arrests, convictions, or eviction of household members related to the use of illegal drugs or abuse of alcohol.

~~A record, or records, of arrest will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.~~

In making its decision to terminate assistance, the CDA will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II. D and 12-II. E. Upon consideration of such alternatives and factors, the CDA may, on a case-by-case basis, choose not to terminate assistance.

Drug-Related and Violent Criminal Activity [24 CFR 5.100]

Drug means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

Drug-related criminal activity is defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute, or use the drug.

Violent criminal activity means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

CDA Policy

- The CDA will terminate a family's assistance if any household member has violated the family's obligation not to engage in any drug-related or violent criminal activity during participation in the HCV program.
- The CDA will consider all credible evidence, including but not limited to, any record of

arrests and/or convictions of household members or household guests related to drug-related or violent criminal activity, and any eviction or notice to evict based on drug-related or violent criminal activity.

- ~~A record, or records, of arrest will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.~~
- In making its decision to terminate assistance, the CDA will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II. D and 12-II. E. Upon consideration of such alternatives and factors, the CDA may, on a case-by-case basis, choose not to terminate assistance.

Other Authorized Reasons for Termination of Assistance [24 CFR 982.552(c24 CFR 5.2005 (c); 24 CFR 984.101(d)]

HUD permits the CDA to terminate assistance under several other circumstances. It is left to the discretion of the CDA whether such circumstances in general warrant consideration for the termination of assistance. As discussed further in section 12-II E, the Violence against Women Act explicitly prohibits the CDA from considering incidents of, or criminal activity directly related to domestic violence, dating violence, sexual assault, stalking, or human trafficking as reasons for terminating the assistance of a victim of such abuse.

Additionally, per 24 CFR 984.101(d), the CDA is no longer permitted to terminate assistance to a family due to the family's failure to meet its obligations under the Family Self Sufficiency (FSS) contract of participation.

CDA Policy

The CDA will terminate a family's assistance if:

- The family and/or its guests have failed to comply with any family obligations under the program. See Exhibit 12-1 for a listing of family obligations and related CDA policies.
- Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal or CDA-operated housing program.
- The family currently owes rent or other amounts to any CDA in connection with Section 8 or public housing assistance under the 1937 Act.
- The family has not reimbursed any CDA for amounts the CDA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.
- The family has breached the terms of a repayment agreement entered into with the CDA. The CDA, at its discretion, may offer a family the opportunity to enter into an agreement to pay amounts owed to the CDA as an alternate to termination. The CDA may prescribe the terms of the agreement.
- The family has failed to provide proper 60 + 1 day notice to both the CDA and the owner prior to moving from an assisted unit or terminating the lease.
- The family has failed to attend an annual reexamination, inspection, or other pre-scheduled appointment.

- The family has committed serious or repeated violations of the lease.
- The family has a member who becomes or is subject to a lifetime registration requirement under a state sex offender registration program.
- A family member or a guest has engaged in or threatened violent or abusive behavior toward CDA personnel.
    - *Abusive or violent behavior towards CDA personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.
    - *Threatening* refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

The family was evicted for repeated violation(s) of the lease.

Repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises, and criminal activity. Generally, the criterion to be use will be whether or not the reason for the eviction was the fault of the tenant or guests.

In making its decision to terminate assistance, the CDA will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II. D and 12-II. E. Upon consideration of such alternatives and factors, the CDA may, on a case-by-case basis, choose not to terminate assistance.

~~***Family Absence from the Unit [24 CFR 982.312]***~~

~~The family may be absent from the unit for brief periods. The CDA must establish a policy on how long the family may be absent from the assisted unit. However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days for any reason. Absence in this context means that no member of the family is residing in the unit.~~

~~CDA Policy~~

~~Except as a reasonable accommodation to a disability, no family (any member) may be absent from the unit for more than 30 consecutive days. If the family (any member) is absent from the unit for more than 30 consecutive calendar days, the family's assistance may be terminated. Notice of termination will be sent in accordance with Section 12-II.F. A reasonable accommodation for a person with a disability may be requested for an exception to this policy.~~

~~When requesting a reasonable accommodation to a disability a written request should be submitted to the CDA at a minimum of 30 days prior to the absence when absence is planned.~~

~~To obtain CDA approval, the family must:~~

~~1. Satisfy notice requirements;~~

~~2.1.Provide documentation acceptable to the CDA regarding the length of absence and the reason for the absence;~~

~~3.1.Affirm their intent to return to the unit at the end of the leave period;~~

4.1.Agree to be responsible for receiving and responding to all notices sent by the CDA to the unit during periods of absence;

5.1.Pay rent to the owner and pay for utilities while they are absent, and

6.1.Make arrangements for the unit to be available for CDA inspections as necessary.

In some instances, it may be reasonable to consider an absence greater than 30 days, for a household member that is not disabled. These requests will require the following:

- Approval prior to the absence;
- Household income will not be adjusted as a result of the temporary absence;
- If during the absence the HUD-mandated annual reexamination is due, and the absent member is an adult, they will be removed to allow the CDA to complete this program requirement. If this removal results in a change to the voucher size, the household will be notified about this change.

If these procedures are not followed, the unit will be considered abandoned and the CDA will terminate housing assistance payments and the family's participation in the program.

Upon the CDA's HOTMA 102/104 compliance date, the below section on the asset limitation is added:

Asset Limitation [24 CFR 5.618; Notice PIH 2023-27]

The CDA has discretion with respect to the application of the asset limitation at annual and interim reexamination. The CDA may adopt a written policy of total non-enforcement, enforcement, or limited enforcement as well as adopting exception policies.

CDA Policy

The CDA has adopted a policy of total nonenforcement of the asset limitation for all program participants. The asset limitation only applies to initial eligibility determinations for new admissions to the CDA's HCV program.

Insufficient Funding [24 CFR 982.454; Notice PIH 2026-12, Revision 2]

The CDA may terminate HAP contracts if the CDA determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program. The CDA must identify in the administrative plan, in the event of insufficient funding, taking into account any cost savings measures taken by the CDA, a description of factors the CDA will consider when determining which HAP contracts to terminate first [24 CFR 982.54(d)(26)].

The CDA will determine whether there is sufficient funding to pay for currently assisted families according to the policies in Part VIII of Chapter 16. If the CDA determines there is a shortage of funding, prior to terminating any HAP contracts, the CDA will determine if any other actions can be taken to reduce program costs.

Actions that may be taken to reduce costs include, but are not limited to:

Rescinding applicant vouchers (with HUD approval);

Reducing subsidy standards;

Reducing payment standards, including discontinuing the use of HUD-approved exception payment standards, if any (mandatory for a PHA in shortfall);

Applying reduced payment standards at the earliest allowable date;

If no family composition changes; no earlier than two years from the effective date of the payment standard reduction

In response to a household composition change resulting in a change to the family voucher size, immediately, upon the effective date of the action adding/removing the household member.

Not absorbing vouchers under portability;

Reviewing utility allowance rates;

Not increasing utility allowances until rates increase by 10 percent or more since the last utility allowance update;

Conducting rent reasonableness on units currently under lease when local rental rates have decreased;

Increasing the CDA's minimum rent;

Denying moves to higher costs areas under portability unless the receiving PHA will absorb;

Denying local moves to higher costs units;

Contacting PHAs currently administering the CDA's vouchers and requesting they absorb;

Requesting owners asking for a rent increase to delay their request (the CDA must honor if the requested rent is reasonable and all other requirements are met); and Seeking HUD waivers:

To apply decreased payment standards immediately

To establish payment standards below 90 percent of the FMR

12-II.D. CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE

Evidence

For criminal activity, HUD permits the CDA to terminate assistance if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted [24 CFR 982.553(c)].

CDA Policy

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

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Use of Criminal Conviction Records after Admission [24 CFR 5.903]

The regulation at 24 CFR 5.903 governs the CDA's access to and use of criminal conviction records obtained from a "law enforcement agency" such as the National Crime Information Center

(NCIC), police departments, and other law enforcement agencies that hold criminal conviction records. While the regulatory listing of permitted uses for these records includes CDA screening of applicants for admission to the HCV program, it specifically excludes the use of records for lease enforcement and eviction of HCV participants and excludes by omission a CDA's use of records to terminate assistance for participants. While a CDA has regulatory authority to use criminal conviction records for the purpose of applicant screening for admission, there is no corresponding authority to use these records to check for criminal and illegal drug activity by participants, and therefore, CDAs may not use records for this purpose. The limitations, however, do not apply to criminal conviction information searches from non-federal sources (i.e., sources other than the "law enforcement agencies" defined in 24 CFR 5.902(b)). There is no prohibition that bars the CDA from using non-federal sources to conduct criminal background checks of program participants.

Consideration of Circumstances [24 CFR 982.552(c)(2)(i)]

The CDA is permitted, but not required, to consider all relevant circumstances when determining whether a family's assistance should be terminated.

CDA Policy

The CDA will consider the following facts and circumstances when making its decision to terminate assistance:

- The seriousness of the case, especially with respect to how it would affect other residents' safety or property.
- The effects that the termination of assistance may have on other members of the family who were not involved in the action or failure to act.
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities or (as discussed further in section 12-II. E) a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking
- The length of time since the violation occurred, including the age of the individual at the time of the conducts, as well as the family's recent history and the likelihood of favorable conduct in the future.
- ~~While a record, or records, of arrest will not be used as the sole basis for termination, an arrest may, however, trigger an investigation to determine whether the participant engaged in disqualifying criminal activity. As part of its investigation, the CDA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The CDA may also consider~~When there is a record of arrest, the CDA may obtain a copy of the police report associated with the arrest and consider the circumstances of the arrest, including:
    - Any statements made by witnesses, or the participant not included in the police report.
    - Whether criminal charges were filed.
    - Whether, if filed, criminal charges were abandoned, dismissed, or not prosecuted, or ultimately resulted in an acquittal.

- Any other evidence relevant to determining whether the participant engaged in disqualifying activity.

Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property.

- In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully.
    - The CDA will require the participant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.
- The CDA will require the participant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.
- In the case of program abuse, the dollar amount of the overpaid assistance and whether a false certification was signed by the family. See Chapter 16-IV.B. Repayment Policy, Criminal Prosecution for Program Fraud/Abuse).

Reasonable Accommodation [24 CFR 982.552(c)(2)(iv)]

If the family includes a person with disabilities, the CDA's decision to terminate the family's assistance is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

CDA Policy

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of assistance, the CDA will determine whether the behavior is related to the disability. If so, upon the family's request, the CDA will determine whether alternative measures are appropriate as a reasonable accommodation. The CDA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed termination of assistance. See Chapter 2 for a discussion of reasonable accommodation.

12-II.E. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING OR HUMAN TRAFFICKING

This section describes the protections against termination of assistance that the Violence against Women Act of (VAWA) provides for victims of domestic violence, dating violence, sexual assault, Stalking, and human trafficking. For general VAWA requirements, key VAWA definitions, and CDA policies pertaining to notification, documentation, and confidentiality, see section 16-IX of this plan.

VAWA Protections against Termination

VAWA provides four specific protections against termination of HCV assistance for victims of domestic violence, dating violence, sexual assault, or stalking. (*Note:* The second, third, and fourth protections also apply to terminations of tenancy or occupancy by owners participating in the HCV program as do the limitations discussed under the next heading.)

Although the VAWA 2022 statute does not specifically include human trafficking in the

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

First, VAWA provides that a CDA may not terminate assistance to a family that moves out of an assisted unit in violation of the lease, with or without prior notification to the CDA, if the move occurred to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking and who reasonably believed they were imminently threatened by harm from further violence if they remained in the unit [24 CFR 982.354(b)(4)].

Second, it provides that an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault, stalking, or human trafficking may not be construed either as a serious or repeated lease violation by the victim or as good cause to terminate the assistance of the victim [24 CFR 5.2005(c)(1)]. Additionally, property damage and noise complaints due to abuse cannot be used as the basis for eviction (Form HUD-5380].

Third, it provides that criminal activity directly related to domestic violence, dating violence, sexual assault, stalking, or human trafficking may not be construed as cause for terminating the assistance of a tenant if a member of the tenant's household, a guest, or another person under the tenant's control is the one engaging in the criminal activity and the tenant or affiliated individual or other individual is the actual or threatened victim of the domestic violence, dating violence, sexual assault, stalking, or human trafficking [24 CFR 5.2005(c)(2)].

Fourth, it gives CDAs the authority to terminate assistance to any tenant or lawful occupant who engages in criminal acts of physical violence against family members or others without terminating assistance to, or otherwise penalizing, the victim of the violence [24 CFR 5.2009(a)].

The CDA and owners may not coerce, intimidate, threaten, interfere with, or retaliate against any person who exercises or assists or encourages a person to exercise any rights or protections under VAWA [FR Notice 1/4/23].

INTRODUCTION

Owners play a major role in the HCV program by supplying decent, safe, ~~and sanitary~~habitable housing for participating families.

The term "owner" refers to any person or entity with the legal right to lease or sublease a unit to a participant in the HCV program [24 CFR 982.4(b)]. The term "owner" includes a principal or other interested party [24 CFR 982.453; 24 CFR 982.306(f)], such as a designated agent of the owner.

Owners have numerous responsibilities under the program, including screening and leasing to families, maintaining the dwelling unit, enforcing the lease, and complying with various contractual obligations.

The chapter is organized in two parts:

Part I: Owners in the HCV Program. This part discusses the role of an owner in the CDA's HCV program and highlights key owner rights and responsibilities.

Part II: HAP Contracts. This part explains the provisions of the HAP contract and the relationship between the CDA, and the owner as expressed in the HAP contract.

For detailed information about HCV program responsibilities and processes, including CDA policies in key areas, owners will need to refer to several other chapters in this plan. Where appropriate, Chapter 13 will reference the other chapters.

PART I. OWNERS IN THE HCV PROGRAM

13-I.A. OWNER RECRUITMENT AND RETENTION [HCV GB, pp. 2-4 to 2-6, HCV Landlord Strategy Guidebook for CDAs]

Education and Outreach

The CDA is responsible for ensuring that very low-income families have access to all types and ranges of affordable housing in the CDA's jurisdiction, particularly housing outside areas of poverty or minority concentration. A critical element in fulfilling this responsibility is for the CDA to ensure that enough owners, representing all types and ranges of affordable housing in the CDA's jurisdiction, are willing to participate in the HCV program.

To accomplish this objective, the CDA must identify and recruit new owners to participate in the program. The CDA can provide education and outreach in a variety of ways. Some strategies include hosting and attending events targeted to landlords or affordable housing providers. Education and outreach can include activities like newsletters, presentations, briefings to community groups, one-on-one appointments, or other ways of sharing information or creating relationships between the CDA and owners. The CDA may also provide monetary incentives and reimbursements to encourage participation in the program.

If the CDA will be conducting outreach events, the CDA must ensure that notices and communications during outreach events are provided in a manner that is effective for persons with hearing, visual, and other communications-related disabilities. The CDA must also take reasonable steps to ensure meaningful access to programs to persons with limited English proficiency.

CDA Policy

The CDA will conduct owner outreach to ensure that owners are familiar with the program and its advantages. The CDA will actively recruit property owners with property located outside areas of poverty and minority concentration. These outreach strategies will include:

- Distributing printed material about the program to property owners and managers.
- Holding owner recruitment/information meetings at least once a year.
- Participating in community-based organizations comprised of private property and apartment owners and managers.
- To the extent practical, partnering with and attending events hosted by other area agencies to deliver information about the HCV program.

Outreach strategies will be monitored for effectiveness and adapted accordingly.

Retention

In addition to recruiting owners to participate in the HCV program, the CDA must also provide the

kind of customer service that will encourage participating owners to remain active in the program. See the "Landlord-Focused Customer Service" chapter of the *HCV Landlord Strategies Guidebook* for more information.

CDA Policy

All CDA activities that may affect an owner's ability to lease a unit will be processed as rapidly as possible, in order to minimize vacancy losses for owners.

The CDA will hold an annual owners' conference to discuss any program changes and new topics as well as provide an opportunity for owners to ask questions, obtain written materials and meet program staff.

The CDA will provide owners with a handbook that explains the program, including HUD and CDA policies and procedures, in easy-to-understand language.

The CDA will give special attention to helping new owners succeed through activities such as:

- The CDA will strongly encourage first-time owners (or their agents) to participate in a briefing session on HAP contract requirements.
- Providing the owner with a designated CDA contact person.
- Providing other written information about how the program operates, including answers to frequently asked questions.
- Provide program information as well as frequently used forms on the CDA Website.

Additional services may be undertaken on an as-needed basis, and as resources permit.

Owner Incentive/Retention Payments [Notice PIH 2022-18]

The CDA may utilize its Unrestricted Net Position (UNP, or administrative fee reserve) or ongoing administrative fees to make owner incentive payments (e.g., signing bonuses) or retention payments to owners that agree to initially lease their unit to an HCV family and/or renew the lease of an HCV family. If the CDA chooses to offer incentive or retention payments, it must adopt a policy that governs when the offer of such payments is appropriate. Owner incentive payments are not housing assistance payments, nor can they effectively serve to supplement ongoing, monthly housing assistance payments. Owner incentive payments are not part of the rent to owner, nor are they taken into consideration when determining whether the rent for the unit is reasonable.

CDA Policy

The CDA will not provide owner incentive or retention payments.

13-II.F. CHANGE IN OWNERSHIP / ASSIGNMENT OF THE HAP CONTRACT [HUD-52641]

The HAP contract cannot be assigned to a new owner without the prior written consent of the CDA.

An owner under a HAP contract must notify the CDA in writing prior to a change in the legal ownership of the unit. The owner must supply all information as requested by the CDA.

Prior to approval of assignment to a new owner, the new owner must agree to be bound by and comply with the HAP contract. The agreement between the new owner and the former owner must

be in writing and in a form that the CDA finds acceptable. The new owner must provide the CDA with a copy of the executed agreement.

CDA Policy

Assignment of the HAP contract will be approved only if the new owner is qualified to become an owner under the HCV program according to the policies in Section 13-I.D. of this chapter.

The CDA must receive a signed, written request from the new owner stating the name and address of the new HAP payee and the effective date of the assignment in order to change the HAP payee under an outstanding HAP contract.

Within 10 business days of receiving the owner's request, the CDA will inform the new and current owner in writing whether the assignment may take place.

The new owner must provide a written certification to the CDA that includes:

- A copy of the escrow statement or other document showing the transfer of title and recorded deed;
- A copy of the owner's IRS Form W-9, Request for Taxpayer Identification Number and Certification, or the social security number of the new owner;
- The effective date of the HAP contract assignment;
- A written agreement to comply with the terms of the HAP contract; and
- A certification that the new owner is not a prohibited relative.

If the above documentation is received, it will be retained in family's file, and no new lease or HAP contract is required. The new owner is bound by the HAP contract that was executed by the previous owner.

If the new owner does not agree to an assignment of the HAP contract, or fails to provide the necessary documents, the CDA will terminate the HAP contract with the old owner. If the new owner wants to offer the family a new lease, and the family elects to stay with continued assistance, the CDA will process the leasing in accordance with the policies in Chapter 9.

Reasonable Accommodation [24 CFR 982.503(d)(5), ~~24 CFR 982.505(d),~~ Notice PIH 2025-12, and Notice PIH 2024-34~~, and Notice PIH 2010-26~~]

Unit-by-unit exceptions to the CDA's payment standards generally are not permitted. However, an exception may be made on a case-by-case basis as a reasonable accommodation for a family that includes a person with disabilities. (See Chapter 2 for a discussion of reasonable accommodations.) When a family requires a unit with specific features or for other disability related reasons to accommodate a family member with a disability, and the family is unable to find a unit with those features or that otherwise meets the disability-related need within the established payment standard, the family may request an exception to the established payment standard as a reasonable accommodation. This type of exception does not affect the CDA's payment standard schedule.

Examples of circumstances that may qualify for an exception payment standard include, but are not limited to:

- Accessibility features such as accessible bathrooms or larger doorways;

- Access to ground-level units or elevators for wheelchair/mobility devices;
- Units with features to benefit individuals with hearing or visual impairments;
- Proximity to medical providers or other services/supports;
- Accessible parking on the premises;
- Accessible to essential services or daily-life activities;
- Proximity to public transit or to other accessible transportation; and
- Location with sidewalks for individuals who use wheelchair/mobility devices

The CDA must evaluate each request on a case-by-case basis. If required as a reasonable accommodation, the CDA may make an exception to the payment standard without HUD approval if the exception amount does not exceed 120 percent of the applicable FMR/SAFMR for the unit size (or in the case of VASH, up to 140 percent of the FMR/SAFMR). The CDA may request HUD approval in accordance with Notice PIH 2025-12for an exception to the payment standard for a particular family if the required amount exceeds 120 percent of the FMR/SAFMR.

~~CDA Policy~~

~~A family that requires a reasonable accommodation may request a higher payment standard at the time the Request for Tenancy Approval (RFTA) is submitted.~~ Unless the disability or the disability-related need is obvious, readily apparent, or already known ~~T~~the family must document the disability-related need for the exception payment standard. In order to approve an exception, or request an exception from HUD, the CDA must determine that:

There is a disability-related need for the particular unit (which may include location);

The gross rent for the unit is above the CDA's payment standard;

~~The family has searched for an appropriate unit within the payment standards;~~

~~There is a shortage of affordable units that would be appropriate for the family;~~

The family share would otherwise exceed 40 percent of adjusted monthly income; and

The rent for the unit is reasonable.

The exception payment standard for the specific dollar amount approved by the CDA or HUD remains effective as long as the family has a disability-related need for the features of the approved unit, and the rent remains reasonable. Requests for a higher exception payment standard for the same unit due to rent increases or changes in the family's income should only be submitted to HUD when the rent is no longer affordable to the family, typically (though not exclusively) when the family share exceeds 40 percent of adjusted monthly income, and if the higher payment standard is above 120 percent of the FMR/SAFMR in effect at the time the CDA determines that the higher payment standard is necessary.

Repayment Agreements Terms

All repayment agreements must be in writing, dated, signed by both the family and the CDA, include the total retroactive rent amount owed, any amount of lump sum payment made at time of execution, if applicable, and the monthly repayment amount. Notice PIH 2018-18 requires certain provisions, at a minimum, to be included in any repayment agreement involving amounts owed by

a family because it underreported or failed to report income:

- A reference to the items in the family briefing packet that state the family's obligation to provide true and complete information at every reexamination and the grounds on which the CDA may terminate assistance because of a family's action or failure to act.
- A statement clarifying that each month the family not only must pay to the CDA the monthly payment amount specified in the agreement but must also pay to the owner the family's monthly share of the rent to the owner.
- A statement that the terms of the repayment agreement may be renegotiated if the family's income decreases or increases.
- A statement that late or missed payments constitute default of the repayment agreement and may result in termination of assistance.

No Offer of Repayment Agreement

CDA Policy

The CDA generally will not enter into a repayment agreement with a family if there is already a repayment agreement in place with the family, if the amount owed exceeds the threshold in this policy, or if the CDA, in consultation with HUD and local law enforcement, determine to pursue criminal charges in connection with the conduct and the amounts owed.

Medical/Disability Records [Notice PIH 2010-26]

The CDA is not permitted to inquire about the nature or extent of a person's disability. The CDA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. ~~If the CDA receives a verification document that provides such information, the CDA should not place this information in the tenant file. The CDA should destroy the document.~~ If the CDA 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, CDA 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 CDA 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 circumstance will the CDA include an applicant's or resident's medical records in the file.

Documentation of Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking

For requirements and CDA policies related to management of documentation obtained from victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking see section 16-IX.E.

PART IX: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, CONFIDENTIALITY

16-IX.A. OVERVIEW

The Violence Against Women Act (VAWA) provides special protections for victims of domestic

violence, dating violence, sexual assault, stalking, and human trafficking who are applying for or receiving assistance under the housing choice voucher (HCV) program. If your state or local laws provide greater protection for such victims, those laws apply in conjunction with VAWA.

- Although the VAWA 2022 statute does not specifically include human trafficking int eh list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD's recent usage, the policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and CDA policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and CDA policies are located primarily in the following sections: 3-I.C, "Family Breakup and Remaining Member of Tenant Family"; 3-III.H, "Prohibition against Denial of Assistance to Victims of Domestic Violence, Dating Violence, Sexual Assault, Stalking, and Human Trafficking"; 10-I.A, "Allowable Moves"; 10-I.B, "Restrictions on Moves"; 12-II.E, "Terminations Related to Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking"; and 12-II.F, "Termination Notice."

16-IX.B. DEFINITIONS [24 CFR 5.2003, 42 USC 13925]

As used in VAWA:

- The term *affiliated ~~individual~~ person* means the tenant's spouse, parent, sibling, or child, or any individual, tenant, or lawful occupant living in the tenant's household, or anyone for whom the tenant acts as parent/guardian~~, with respect to a person:~~
  - ~~A spouse, parent, brother or sister, or child of that individual to whom that individual stands in the position or place of a parent; or~~
  - ~~Any other individual, tenant, or lawful occupant living the household of the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.~~
- The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights can remain intact.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - The length of the relationship.
  - The type of relationship.
  - The frequency of interaction between the people involved in the relationship.
- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding, and in the case of victim services, includes the user or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over

a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is:

- The current or former spouse or intimate partner of the victim, or person similarly situated to a spouse or intimate partner of the victim
- A person who is cohabitating or has cohabitated with the victim as a spouse or intimate partner
- A person with whom the victim shares a child in common
- A person who commits acts against a youth or adult victim who is protected from those acts under the domestic or family violence laws of the jurisdiction

- The term economic abuse means behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, and manipulation to:
  - Restrict a person's access to money, assets, credit, or financial information
  - Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage
  - Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or to whom one has a fiduciary duty
- The term *sexual assault* means:
  - Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent.
- The term *stalking* means:
  - To engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress.
- The term *technological abuse* means an act or pattern of behavior that occurs within domestic violence, dating violence, sexual assault, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor another person, except as otherwise permitted by law, that occurs using any form of technology, including but not limited to:
  - Internet enabled devices
  - Online spaces and platforms
  - Computers
  - Mobile devices
  - Cameras and imaging programs
  - Apps
  - Location tracking devices
  - Communication technologies

- Any other emergency technologies

- The term *victim* means any victim of VAWA violence/abuse, regardless of actual or perceived sexual orientation, gender identity, six, or marital status.

16-IX.C. NOTIFICATION [24 CFR 5.2005(a)]

Notification to Public

The CDA adopts the following policy to help ensure that all actual and potential beneficiaries of its HCV program are aware of their rights under VAWA.

CDA Policy

The CDA will post the following information regarding VAWA in its offices and on its website. It will also make the information readily available to anyone who requests it.

A copy of Form HUD-5380, Notice of Occupancy Rights under VAWA to housing choice voucher program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (Exhibit 16-1)

A copy of Form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation (Exhibit 16-2)

A copy of the CDA's emergency transfer plan (Exhibit 16-3)

A copy of Form HUD-5383, HUD's Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking (Exhibit 16-4)

The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibits 16-1 and 16-2)

Contact information for local victim advocacy groups or service providers

Notification to Program Applicants and Participants [24 CFR 5.2005(a)(1)]

CDA's are required to inform program applicants and participants of their rights under VAWA, including their right to confidentiality and the limits thereof, when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits.

CDA Policy

The CDA will provide all applicants with information about VAWA at the time they request an application for housing assistance, and in the written briefing packet as part of the admission process. The CDA will also include information about VAWA in all notices of denial of assistance (see section 3-III.H).

The CDA will provide all participants with information about VAWA ~~at the time of admission (see section 5-I. B) and~~ at annual reexamination. The CDA will also include information about VAWA in notices of termination of assistance, as provided in section 12-II.F.

The VAWA information provided to applicants and participants will consist of the notices in Exhibits 16-1 and 16-2.

The CDA is not limited to providing VAWA information at the times specified in the above policy. If the CDA decides to provide VAWA information to a participant following an incident of

domestic violence, Notice PIH 2017-08 cautions against sending the information by mail, since the abuser may be monitoring the mail. The notice recommends that in such cases the CDA make alternative delivery arrangements that will not put the victim at risk.

CDA Policy

Whenever the CDA has reason to suspect that providing information about VAWA to a participant might place a victim of domestic violence at risk, it will attempt to deliver the information by hand directly to the victim or by having the victim come to an office or other space that may be safer for the individual, making reasonable accommodations as necessary and as indicated by the victim on Fomr HUD-5382 or the emergency transfer request form. For example, the CDA may, based on victim information, determine ~~decide~~ not to send mail regarding VAWA protections to the victim's unit if the CDA believes the perpetrator may have access to the victim's mail, unless requested by the victim.

When discussing VAWA with the victim, the CDA will take reasonable precautions to ensure that no one can overhear the conversation, such as having conversations in a private room.

The victim may, but is not required to, designate an attorney, advocate, or other secure contact for communications regarding VAWA protections.

Notification to Owners and Managers

While the CDA is no longer required, by regulation, to notify owners and managers participating in the HCV program of their rights and obligations under VAWA, the CDA may still choose to inform them.

CDA Policy

The CDA will provide owners and managers with information about their rights and obligations under VAWA when they begin their participation in the program and at least annually thereafter.

The VAWA information provided to owners will consist of the notice in Exhibit 16-5 and a copy of Form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, and Stalking ~~and Alternate Documentation~~.

16-IX.D. DOCUMENTATION [24 CFR 5.2007]

A CDA presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault, stalking, human trafficking, or criminal activity related to any of these forms of abuse may—but is not required to—request that the individual making the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. The CDA may extend this time period at its discretion. [24 CFR 5.2007(a)]

The individual may satisfy the CDA's request by providing any one of the following three forms of documentation [24 CFR 5.2007(b)]:

(1) A completed and signed HUD-approved certification form (HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), which must include the name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim. The form may be filled out and submitted on behalf of the victim.

(2) A federal, state, tribal, territorial, or local police report or court record, or an administrative record

(3) Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault stalking, human trafficking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; a mental health professional or a medical professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

Tenants cannot be expected and cannot be asked or required to claim, document, or prove victim status or VAWA violence/abuse other than a stated in the Notice of Occupancy rights [Form HUD-5382]. The CDA may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under "Conflicting Documentation," nor may it require certification in addition to third-party documentation [FR Notice 11/16/16].

CDA Policy

Any request for documentation of domestic violence, dating violence, sexual assault stalking, or human trafficking will be in writing, will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

The CDA may, in its discretion, extend the deadline by 10 business days. In determining whether to extend the deadline, the CDA will consider factors that may contribute to the victim's inability to provide documentation in a timely manner, including cognitive limitations, disabilities, limited English proficiency, absence from the unit, administrative delays, the danger of further violence, and the victim's need to address health or safety issues. Any extension granted by the CDA will be in writing.

Once the victim provides documentation, the CDA will acknowledge receipt of the documentation within 10 business days.

16-IX.E. CONFIDENTIALITY [24 CFR 5.2007(b)(4)]

If a tenant inquires or requests any VAWA protections or represents that they or a household member are a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, and therefore entitled to VAWA protections, the CDA must keep any information they provide concerning the VAWA violence/abuse strictly confidential, including their or a household member's status as a victim. This information should be securely and separately kept from tenant files. The ~~All information provided to the CDA regarding domestic violence, dating violence, sexual assault, stalking, or human trafficking, including the fact that an individual is a victim, must be retained in confidence. This means that the~~ CDA (1) may not enter the information into any shared database, (2) may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work, and (3) may not provide the information to any other entity or individual, except to the extent that the disclosure is (a) requested or consented to by the individual in writing, (b) required for use in an eviction proceeding, or (c) otherwise required by applicable law.

CDA Policy

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

EXHIBIT 16-2: CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING AND ALTERNATE DOCUMENTATION, FORM HUD-5382

U.S. Department of Housing and Urban Development
OMB Approval No. 2577-0286
Exp. 1/31/2028

CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

Confidentiality Note: Any personal information you share in this form will be maintained by your covered housing provider according to the confidentiality provisions below.

Purpose of Form: If you are a tenant of or applicant for housing assisted under a covered housing program, or if you are applying for or receiving transitional housing or rental assistance under a covered housing program, and ask for protection under the Violence Against Women Act ("VAWA"), you may use this form to comply with a covered housing provider's request for written documentation of your status as a "victim". This form is accompanied by a "Notice of Occupancy Rights Under the Violence Against Women Act," Form HUD-5380.

VAWA protects individuals and families regardless of a victim's age or actual or perceived sexual orientation, gender identity, sex, or marital status.

You are not expected and cannot be asked or required to claim, document, or prove victim status or VAWA violence/abuse other than as stated in "Notice of Occupancy Rights Under the Violence Against Women Act," Form HUD-5380.

This form is **one of your available options** for responding to a covered housing provider's written request for documentation of victim status or the incident(s) of VAWA violence/abuse. If you choose, you may submit one of the types of third-party documentation described in Form HUD-5380, in the section titled, "What do I need to document that I am a victim?". Your covered housing provider must give you at least 14 business days (weekends and holidays do not count) to respond to their written request for this documentation.

Will my information be kept confidential? Whenever you ask for or about VAWA protections, your covered housing provider must keep any information you provide about the VAWA violence/abuse or the fact you (or a household member) are a victim, including the information on this form, strictly confidential. This information should be securely and separately kept from your other tenant files. This information can only be accessed by an employee/agent of your covered housing provider if (1) access is required for a specific reason, (2) your covered housing provider explicitly authorizes that person's access for that reason, and (3) the authorization complies with applicable law. This information will not be given to anyone else or put in a database shared with anyone else, unless your covered housing provider (1) gets your written permission to do so for a limited time, (2) is required to do so as part of an eviction or termination hearing, or (3) is required to do so by law.

In addition, your covered housing provider must keep your address strictly confidential to ensure that it is not disclosed to a person who committed or threatened to commit VAWA violence/abuse against you (or a household member).

What if I require this information in a language other than English? To read this in Spanish or another language, please contact **[INSERT COVERED HOUSING PROVIDER'S CONTACT INFORMATION; FOR HOPWA PROVIDERS – INSERT GRANTEE NAME AND CONTACT INFORMATION]** or go to **[INSERT WEBSITE, IF APPLICABLE]**. You can read translated VAWA forms at https://www.hud.gov/program_offices/administration/hudclips/forms/hud5a#4. If you speak or read in a language other than English, your covered housing provider must give you language assistance regarding your VAWA protections (for example, oral interpretation and/or written translation).

Can I request a reasonable accommodation? If you have a disability, your covered housing provider must provide reasonable accommodations to rules, policies, practices, or services that may be necessary to allow you to equally benefit from VAWA protections (for example, giving you more time to submit documents or assistance with filling out forms). You may request a reasonable accommodation at any time, even for the first time during an eviction. If a provider is denying a specific reasonable accommodation because it is not reasonable, your covered housing provider must first engage in the interactive process with you to identify possible alternative accommodations. Your covered housing provider must also ensure effective communication with individuals with disabilities. Need further help? For additional information on VAWA and to find help in your area, visit https://www.hud.gov/vawa. To speak with a housing advocate, contact **[ENTER CONTACT INFO FOR LOCAL ADVOCACY AND LEGAL AID ORGANIZATIONS]**.

TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

1. Name(s) of victim(s): _____

2. Your name *(if different from victim's)***:** _____

3. Name(s) of other member(s) of the household: _____

_____

4. Name of the perpetrator *(if known and can be safely disclosed)*: _____

_____

5. What ist he safest and most secure way to contact you? (You may choose more than one.)

If any contact information changes or is no longer a safe contact method, notify your covered housing provider.

☐ Phone Phone Number: _____

Safe to receive a voicemail: ☐ Yes ☐ No

☐ E-mail E-mail address: _____

Safe to receive an e-mail: ☐ Yes ☐ No

☐ Mail Mailing Address: _____

Safe to receive mail from your housing provider: ☐ Yes ☐ No

☐ Other Please List: _____

6. Anything else your housing provider should know to safely communicate with you?

_____

_____

_____

_____

_____

_____

Applicable definitions of domestic violence, dating violence, sexual assault, or stalking:

Domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who lives with or has lived with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Spouse or intimate partner of the victim includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

Dating violence means violence committed by a person:

(1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(2) Where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship; (ii) The type of relationship; and (iii) The frequency of interaction between the persons involved in the relationship.

Sexual assault means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(1) Fear for the person's individual safety or the safety of others or

(2) Suffer substantial emotional distress.

Certification of Applicant or Tenant: By signing below, I am certifying that the information provided on this form is true and correct to the best of my knowledge and recollection, and that one or more members of my household is or has been a victim of domestic violence, dating violence, sexual assault, or stalking as described in the applicable definitions above.

Signature _____ **Date** _____

Public Reporting Burden for this collection of information is estimated to average 20 minutes per response. This includes the time for collecting, reviewing, and reporting. Comments concerning the accuracy of this burden estimate and any suggestions for reducing this burden can be sent to the Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410. Housing providers in programs covered by VAWA may request certification that the applicant or tenant is a victim of VAWA violence/abuse. A Federal agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

Confidentiality Note: Any personal information you share in this form will be maintained by your covered housing provider according to the confidentiality provisions below.

Purpose of Form: If you are a tenant of or applicant for housing assisted under a covered housing program, or if you are applying for or receiving transitional housing or rental assistance under a covered housing program, and ask for protection under the Violence Against Women Act ("VAWA"), you may use this form to comply with a covered housing provider's request for written documentation of your status as a "victim". This form is accompanied by a "Notice of Occupancy Rights Under the Violence Against Women Act," Form HUD-5380.

VAWA protects individuals and families regardless of a victim's age, sex, or marital status.

You are not expected **and cannot be asked or required** to claim, document, or prove victim status or VAWA violence/abuse other than as stated in "Notice of Occupancy Rights Under the Violence Against Women Act," Form HUD-5380.

This form is **one of your available options** for responding to a covered housing provider's written request for documentation of victim status or the incident(s) of VAWA violence/abuse. If you choose, you may submit one of the types of third-party documentation described in Form HUD-5380, in the section titled, "What do I need to document that I am a victim?". Your covered housing provider must give you at least 14 business days (weekends and holidays do not count) to respond to their written request for this documentation.

Will my information be kept confidential? Whenever you ask for or about VAWA protections, your covered housing provider must keep any information you provide about the VAWA violence/abuse or the fact you (or a household member) are a victim, including the information on this form, strictly confidential. This information should be securely and separately kept from your other tenant files. This information can only be accessed by an employee/agent of your covered housing provider if (1) access is required for a specific reason, (2) your covered housing provider explicitly authorizes that person's access for that reason, **and** (3) the authorization complies with applicable law. This information will not be given to anyone else or put in a database shared with anyone else, unless your covered housing provider (1) gets your written permission to do so for a limited time, (2) is required to do so as part of an eviction or termination hearing, **or** (3) is required to do so by law.

In addition, your covered housing provider must keep your address strictly confidential to ensure that it is not disclosed to a person who committed or threatened to commit VAWA violence/abuse against you (or a household member).

What if I require this information in a language other than English? To read this in Spanish or another language, please contact [INSERT COVERED HOUSING PROVIDER'S CONTACT INFORMATION; FOR HOPWA PROVIDERS – INSERT GRANTEE NAME AND CONTACT INFORMATION] or go to [INSERT WEBSITE, IF APPLICABLE]. You can read translated VAWA forms at https://www.hud.gov/program_offices/administration/hudclips/forms/hud5a#4. If you speak or read in a language other than English, your covered housing provider must give you language assistance regarding your VAWA protections (for example, oral interpretation and/or written translation).

Can I request a reasonable accommodation? If you have a disability, your covered housing provider must provide reasonable accommodations to rules, policies, practices, or services that may be necessary to allow you to equally benefit from VAWA protections (for example, giving you more time to submit documents or assistance with filling out forms). You may request a reasonable accommodation at any time, even for the first time during an eviction. If a provider is denying a specific reasonable accommodation because it is not reasonable, your covered housing provider must first engage in the interactive process with you to identify possible alternative accommodations. Your covered housing provider must also ensure effective communication with individuals with disabilities.

Need further help? For additional information on VAWA and to find help in your area, visit https://www.hud.gov/vawa. To speak with a housing advocate, contact [ENTER CONTACT INFO FOR LOCAL ADVOCACY AND LEGAL AID ORGANIZATIONS].

TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

1. Name(s) of victim(s):

_____
_____

2. Your name (*if different from victim's*)**:**

_____
_____

3. Name(s) of other member(s) of the household:

_____
_____

_____
_____
_____

4. Name of the perpetrator *(if known and can be safely disclosed)*: _____

5. What is the safest and most secure way to contact you? (You may choose more than one.)

If any contact information changes or is no longer a safe contact method, notify your covered housing provider.

☐ Phone Phone Number: _____

Safe to receive a voicemail: ☐ Yes ☐ No

☐ E-mail E-mail Address: _____

Safe to receive an email: ☐ Yes ☐ No

☐ Mail Mailing Address: _____

Safe to receive mail from your housing provider: ☐ Yes ☐ No

☐ Other Please List: _____

Anything else your housing provider should know to safely communicate with you?

_____
_____
_____
_____
_____
_____
_____
_____

6. Applicable definitions of domestic violence, dating violence, sexual assault, or stalking:

Domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who lives with or has lived with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Spouse or intimate partner of the victim includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

Dating violence means violence committed by a person:

(1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; **and**

(2) Where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship; (ii) The type of relationship; and (iii) The frequency of interaction between the persons involved in the relationship.

Sexual assault means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(1) Fear for the person's individual safety or the safety of others **or**

(2) Suffer substantial emotional distress.

Certification of Applicant or Tenant: By signing below, I am certifying that the information provided on this form is true and correct to the best of my knowledge and recollection, and that one or more members of my household is or has been a victim of domestic violence, dating violence, sexual assault, or stalking as described in the applicable definitions above.

Signature _____ **Date** _____

Public Reporting Burden for this collection of information is estimated to average 20 minutes per response. This includes the time for collecting, reviewing, and reporting. Comments concerning the accuracy of this burden estimate and any suggestions for reducing this burden can be sent to the Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410. Housing providers in programs covered by VAWA may request certification that the applicant or tenant is a victim of VAWA violence/abuse. A Federal agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

EXHIBIT 16-4: EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, FORM HUD-5383

U.S. Department of Housing and Urban Development
OMB Approval No. 2577-0286
Exp. 1/31/2028

CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

Confidentiality Note: Any personal information you share in this form will be maintained by your covered housing provider according to the confidentiality provisions below.

Purpose of Form: If you are a tenant of housing assisted under a covered housing program, or if you are receiving transitional housing or rental assistance under a covered housing program, you may use this form to request an emergency transfer and certify that you qualify for an emergency transfer under the Violence Against Women Act ("VAWA"). This form refers to domestic violence, dating violence, sexual assault, or stalking as "VAWA violence/abuse."

VAWA protects individuals and families regardless of a victim's age or actual or perceived sexual orientation, gender identity, sex, or marital status.

You may request an emergency transfer when:

1. You (or a household member) are a victim of VAWA violence/abuse;
2. You expressly request the emergency transfer; **AND**
3. **EITHER**
    a. you reasonably believe that there is a threat of imminent harm from further violence, including trauma, if you (or a household member) stay in the same dwelling unit; or
    b. if you (or a household member) are a victim of sexual assault, either you reasonably believe there is a threat of imminent harm from further violence, including trauma, if you (or a household member) stay in the unit, or the sexual assault occurred on the premises and you request an emergency transfer within 90 days (including holidays and weekend days) of when that assault occurred.

A covered housing provider, in response to an emergency transfer request, should not evaluate whether you are in good standing as part of the assessment or provision of an emergency transfer. Whether or not you are in good standing does not impact your ability to request an emergency transfer under VAWA. However, submitting this form does not necessarily mean that you will receive an emergency transfer. See your covered housing provider's VAWA Emergency Transfer Plan for more information about VAWA emergency transfers and see "Notice of Occupancy Rights Under the Violence Against Women Act," Form HUD-5380, for additional housing rights you may be entitled to.

Am I required to submit any documentation to my covered housing provider? Your covered housing provider may request documentation proving that you, or a household member, are a victim of VAWA violence/abuse, in addition to completing this emergency transfer request form. The request can be met by completing and submitting the VAWA Self-certification Form (Form HUD-5382), unless the covered housing provider receives conflicting information about the VAWA violence/abuse. If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you may, instead, choose to submit that documentation to your covered housing provider. See "Notice of Occupancy Rights Under the Violence Against Women Act," Form HUD-5380, for more information.

Will my information be kept confidential? Whenever you ask for or about VAWA protections, your covered housing provider must keep any information you provide about the VAWA violence/abuse or the fact you (or a household member) are a victim, including the information on this form, strictly confidential. This information should be securely and separately kept from your other tenant files. This information can only be accessed by an employee/agent of your covered housing provider if (1) access is required for a specific reason, (2) your covered housing provider explicitly authorizes that person's access for that reason, and (3) the authorization complies with applicable law. This information will not be given to anyone else or

put in a database shared with anyone else, unless your covered housing provider (1) gets your written permission to do so for a limited time, (2) is required to do so as part of an eviction or termination hearing, or (3) is required to do so by law.

In addition, your covered housing provider must keep your address strictly confidential to ensure that it is not disclosed to a person who committed or threatened to commit VAWA violence/abuse against you (or a household member).

What if I need this information in a language other than English? To read this in Spanish or another language, please contact **[INSERT COVERED HOUSING PROVIDER'S CONTACT INFORMATION; FOR HOPWA PROVIDERS – INSERT GRANTEE NAME AND CONTACT INFORMATION] or go to [INSERT WEBSITE, IF APPLICABLE]**. You can read translated VAWA forms at https://www.hud.gov/program_offices/administration/hudclips/forms/hud5a#4. If you speak or read in a language other than English, your covered housing provider must give you language assistance regarding your VAWA protections (for example, oral interpretation and/or written translation).

Can I request a reasonable accommodation? If you have a disability, your covered housing provider must provide reasonable accommodations to rules, policies, practices, or services that may be necessary to allow you to equally benefit from VAWA protections (for example, giving you more time to submit documents or assistance with filling out forms). You may request a reasonable accommodation at any time, even for the first time during an eviction. If a provider is denying a specific reasonable accommodation because it is not reasonable, your covered housing provider must first engage in the interactive process with you to identify possible alternative accommodations. Your covered housing provider must also ensure effective communication with individuals with disabilities. Need further help? For additional information on VAWA and to find help in your area, visit https://www.hud.gov/vawa. To speak with a housing advocate, contact **[ENTER CONTACT INFO FOR LOCAL ADVOCACY AND LEGAL AID ORGANIZATIONS]**.

TO BE COMPLETED BY OR ON BEHALF OF THE TENANT REQUESTING AN EMERGENCY TRANSFER

1. Name(s) of victim(s): _____

2. Your name *(if different from victim's)***:** _____

3. Name(s) of other household member(s): _____

_____

4. Name(s) of other household member(s) who would transfer with the victim: _____

_____

5. Name of the perpetrator *(if known and can be safely disclosed)*: _____

_____

6. Address of location from which the victim seeks to transfer: _____

_____

7. Current Unit Size (# of bedrooms): _____

8. What is the safest and most secure way to contact you? (You may choose more than one.)

If any contact information changes or is no longer a safe contact method, notify your covered housing provider.

☐ Phone Phone Number: _____

Safe to receive a voicemail: ☐ Yes ☐ No

☐ E-mail E-mail address: _____

Safe to receive an e-mail: ☐ Yes ☐ No

☐ Mail Mailing Address: _____

Safe to receive mail from your housing provider: ☐ Yes ☐ No

☐ Other Please List: _____

9. Anything else your housing provider should know to safely communicate with you?

_____

_____

_____

10. What features are requested for a safe unit? You may list here any information that would facilitate a suitable transfer, such as accessibility needs, and a description of where it is safe or unsafe for you to live.

(Please note that the ability to provide an emergency transfer is based on unit availability.)

☐ New Neighborhood ☐ New Building
☐ First Floor Unit ☐ Second Floor Unit (and above)
☐ Near an Exit ☐ Well-lit hallways/walkways
☐ 24-hour Security ☐ Accessible unit

☐ Other _____

_____

11. To approve your request for an emergency transfer, your covered housing provider may require that you provide written documentation that you (or a household member) are a victim of VAWA violence/abuse. Your covered housing provider must make this request for documentation in writing. You can choose to submit any one of the following types of documentation:

- Form HUD-5382 Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation, which asks your name and the perpetrator's name (if known and safe to provide);
- A document signed by a victim service provider, attorney, mental health professional, or medical professional who has helped you address the VAWA violence/abuse. The professional must state "under penalty of perjury" that he/she/they believe in the occurrence of the incident of VAWA violence/abuse and that it is covered by VAWA. Both you and the professional must sign the statement;
- A police, administrative, or court record (such as a protective order) that shows you (or a household member) are a victim of VAWA violence/abuse; OR
- If permitted by your covered housing provider, a statement or other evidence provided by you.

Certification of Tenant: By signing below, I am certifying that the information provided on this form is true and correct to the best of my knowledge and recollection, and that I meet the conditions described on this form to qualify for an emergency transfer.

Signature _____ Date _____

Public reporting burden for this collection of information is estimated to average 20 minutes per response. This includes the time for collecting,

reviewing, and reporting. Comments concerning the accuracy of this burden estimate and any suggestions for reducing this burden can be sent to the Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410. Covered housing providers in programs covered by VAWA may ask for a written request for an emergency transfer for a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking. Housing providers may distribute this form to tenants and tenants may use it to request an emergency transfer. The information is subject to the confidentiality requirements of VAWA. A Federal agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

Emergency Transfer Request For Victims Of Domestic Violence, Dating Violence, Sexual Assault, Or Stalking

Confidentiality Note: Any personal information you share in this form will be maintained by your covered housing provider according to the confidentiality provisions below.

Purpose of Form: If you are a tenant of housing assisted under a covered housing program, or if you are receiving transitional housing or rental assistance under a covered housing program, you may use this form to request an emergency transfer and certify that you qualify for an emergency transfer under the Violence Against Women Act ("VAWA"). This form refers to domestic violence, dating violence, sexual assault, or stalking as "VAWA violence/abuse."

VAWA protects individuals and families regardless of a victim's age, sex, or marital status.

You may request an emergency transfer when:

1. You (or a household member) are a victim of VAWA violence/abuse;
2. You expressly request the emergency transfer; **AND**
3. **EITHER**
   a. you reasonably believe that there is a threat of imminent harm from further violence, including trauma, if you (or a household member) stay in the same dwelling unit; **or**
   b. if you (or a household member) are a victim of sexual assault, either you reasonably believe there is a threat of imminent harm from further violence, including trauma, if you (or a household member) stay in the unit, or the sexual assault occurred on the premises and you request an emergency transfer within 90 days (including holidays and weekend days) of when that assault occurred.

A covered housing provider, in response to an emergency transfer request, should not evaluate whether you are in good standing as part of the assessment or provision of an emergency transfer. Whether or not you are in good standing does not impact your ability to request an emergency transfer under VAWA.

However, submitting this form does not necessarily mean that you will receive an emergency transfer. See your covered housing provider's VAWA Emergency Transfer Plan for more information about VAWA emergency transfers and see "Notice of Occupancy Rights Under the Violence Against Women Act," Form HUD-5380, for additional housing rights you may be entitled to.

Am I required to submit any documentation to my covered housing provider? Your covered housing provider may request documentation proving that you, or a household member, are a victim of VAWA violence/abuse, in addition to completing this emergency transfer request form. The request can be met by completing and submitting the VAWA Self-certification Form (Form HUD-5382), unless the covered housing provider receives conflicting information about the VAWA violence/abuse. If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you may, instead, choose to submit that documentation to your covered housing provider. See "Notice of Occupancy Rights Under the Violence Against Women Act," Form HUD-5380, for more information.

Will my information be kept confidential? Whenever you ask for or about VAWA protections, your covered housing provider must keep any information you provide about the VAWA violence/abuse or the fact you (or a household member) are a victim, including the information on this form, strictly confidential. This information should be securely and separately kept from your other tenant files. This information can only be accessed by an employee/agent of your covered housing provider if (1) access is required for a specific reason, (2) your covered housing provider explicitly authorizes that person's access for that reason, **and** (3) the authorization complies with applicable law. This information will not be given to anyone else

or put in a database shared with anyone else, unless your covered housing provider (1) gets your written permission to do so for a limited time, (2) is required to do so as part of an eviction or termination hearing, **or** (3) is required to do so by law.

In addition, your covered housing provider must keep your address strictly confidential to ensure that it is not disclosed to a person who committed or threatened to commit VAWA violence/abuse against you (or a household member).

What if I need this information in a language other than English? To read this in Spanish or another language, please contact [INSERT COVERED HOUSING PROVIDER'S CONTACT INFORMATION; FOR HOPWA PROVIDERS – INSERT GRANTEE NAME AND CONTACT INFORMATION] or go to [INSERT WEBSITE, IF APPLICABLE]. You can read translated VAWA forms at https://www.hud.gov/program_offices/administration/hudclips/forms/hud5a#4. If you speak or read in a language other than English, your covered housing provider must give you language assistance regarding your VAWA protections (for example, oral interpretation and/or written translation).

Can I request a reasonable accommodation? If you have a disability, your covered housing provider must provide reasonable accommodations to rules, policies, practices, or services that may be necessary to allow you to equally benefit from VAWA protections (for example, giving you more time to submit documents or assistance with filling out forms). You may request a reasonable accommodation at any time, even for the first time during an eviction. If a provider is denying a specific reasonable accommodation because it is not reasonable, your covered housing provider must first engage in the interactive process with you to identify possible alternative accommodations. Your covered housing provider must also ensure effective communication with individuals with disabilities.

Need further help? For additional information on VAWA and to find help in your area, visit https://www.hud.gov/vawa. To speak with a housing advocate, contact [ENTER CONTACT INFO FOR LOCAL ADVOCACY AND LEGAL AID ORGANIZATIONS].

TO BE COMPLETED BY OR ON BEHALF OF THE TENANT REQUESTING AN EMERGENCY TRANSFER

1. **Name(s) of victim(s):** _____
2. **Your name** (*if different from victim's*): _____
3. **Name(s) of other household member(s):** _____
4. **Name(s) of other household member(s) who would transfer with the victim:** _____
5. **Name of the perpetrator** (*if known and can be safely disclosed*): _____
6. **Address of location from which the victim seeks to transfer:** _____
7. **Current Unit Size (# of bedrooms):** _____
8. **What is the safest and most secure way to contact you? (You may choose more than one.)** If any contact information changes or is no longer a safe contact method, notify your covered housing provider.

   ☐ Phone Phone Number: _____

Safe to receive a voicemail: ☐ Yes ☐ No

☐ E-mail E-mail Address: _____
Safe to receive an email: ☐ Yes ☐ No

☐ Mail Mailing Address: _____
Safe to receive mail from your housing provider: ☐ Yes ☐ No

☐ Other Please List: _____

9. Anything else your housing provider should know to safely communicate with you?

_____
_____
_____
_____
_____

10. What features are requested for a safe unit? You may list here any information that would facilitate a suitable transfer, such as accessibility needs, and a description of where it is safe or unsafe for you to live.

(*Please note that the ability to provide an emergency transfer is based on unit availability*.)

☐ New Neighborhood ☐ New Building
☐ First Floor unit ☐ Second Floor unit (and above)
☐ Near an Exit ☐ Well-lit hallways/walkways
☐ 24-hour Security ☐ Accessible unit
☐ Other:

_____
_____
_____
_____
_____
_____

11. To approve your request for an emergency transfer, your covered housing provider may require that you provide written documentation that you (or a household member) are a victim of VAWA violence/abuse. Your covered housing provider must make this request for documentation in writing. You can choose to submit **any one** of the following types of documentation:

- Form HUD-5382 *Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation*, which asks your name and the perpetrator's name (if known and safe to provide);
- A document signed by a victim service provider, attorney, mental health professional, or medical professional who has helped you address the VAWA violence/abuse. The professional must state "under penalty of perjury" that he/she/they believe in the

occurrence of the incident of VAWA violence/abuse and that it is covered by VAWA. Both you and the professional must sign the statement;

- A police, administrative, or court record (such as a protective order) that shows you (or a household member) are a victim of VAWA violence/abuse; OR
- If permitted by your covered housing provider, a statement or other evidence provided by you.

Certification of Tenant: By signing below, I am certifying that the information provided on this form is true and correct to the best of my knowledge and recollection, and that I meet the conditions described on this form to qualify for an emergency transfer.

Signature **Date**

Public reporting burden for this collection of information is estimated to average 20 minutes per response. This includes the time for collecting, reviewing, and reporting. Comments concerning the accuracy of this burden estimate and any suggestions for reducing this burden can be sent to the Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410. Covered housing providers in programs covered by VAWA may ask for a written request for an emergency transfer for a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking. Housing providers may distribute this form to tenants and tenants may use it to request an emergency transfer. The information is subject to the confidentiality requirements of VAWA. A Federal agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

PART I: GENERAL REQUIREMENTS

17-I.A. OVERVIEW [24 CFR 983.5~~; FR Notice 01/18/17; Notice PIH 2017-21~~]

The project-based voucher (PBV) program allows the CDA, which already administer a tenant-based voucher program under an annual contributions contract (ACC) with HUD, to take up to 20 percent of its authorized units (plus an additional 10 percent for units meeting certain criteria) and attach the funding to specific units rather than using it for tenant-based assistance [24 CFR 983.6]. Assistance may be tied to a multifamily building or a single-family building. The CDA may only operate a PBV program if doing so is consistent with the CDA's Annual Plan, and the goal of deconcentrating poverty and expanding housing and economic opportunities [42 U.S.C. 1437f(o)(13)]. The CDA has discretion whether to operate a PBV program. HUD approval is not required, except that the CDA must notify HUD of its intent to project-base its vouchers and when the CDA executes, amends, or extends a HAP contract. The CDA must also state in its administrative plan to include all PBV-related matters over which the CDA is exercising its discretion.

CDA Policy

The CDA will operate a project-based voucher program using up to 200 vouchers for project-based assistance, plus vouchers for project-based assistance at up to 120 former public housing scattered-site units.

For purposes of this chapter, "project" shall be defined in the broadest possible manner allowed by PBV requirements.

The CDA may enter into a HAP contract for ~~PBV assistance may be attached to~~ existing housing, ~~or~~ newly constructed or rehabilitated housing (see definitions below)~~[24 CFR 983.52]~~. ~~If PBV units are already selected for project-based assistance either under an agreement to enter into HAP Contract (Agreement) or a HAP contract, the CDA is not required to reduce the number of these units if the number of authorized units is subsequently reduced. However, the CDA is responsible for determining the amount of budget authority that is available for project-based vouchers and ensuring that the amount of assistance that is attached to units is within the amounts available under the ACC, regardless of whether the CDA has vouchers available for project-basing [FR Notice 1/18/17].~~During the term of the Hap contract, the CDA makes housing assistance payments to the owner for units leased and occupied by eligible families.

~~**Additional Project-Based Units [FR Notice 1/18/17; Notice PIH 2017-21; FR Notice 1/24/22]**~~

~~The CDA may project-base an additional 10 percent of its units above the 20 percent program limit. The units may be distributed among one, all, or a combination of the categories as long as the total number of units does not exceed the 10 percent cap. For units under a HAP contract that was first executed on or after April 18, 2017, units qualify under this exception if the units:~~

- ~~Are specifically made available to house individuals and families that meet the definition of homeless under section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302) and contained in the Continuum of Care Interim Rule at 24 CFR 578.3.~~
- ~~Are specifically made available to house families that are comprised of or include a veteran.~~
  - ~~*Veteran* means an individual who has served in the United States Armed Forces.~~

- Provide supportive housing to persons with disabilities or elderly persons as defined in 24 CFR 5.403.

- Are in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year Estimates.

PBV units that house eligible youth receiving FUPY/FYI assistance are also covered by this 10 percent exception authority if the units are under a HAP contract that became effective after December 27, 2020, and if the unit is occupied by an eligible youth receiving FUPY/FYI assistance. FYI TPV's that were awarded under Notice PIH 2019-20 are not part of this exception since CDAs are prohibited from project-basing FYI TPV's. Units added after December 27, 2020, through an amendment of a HAP contract that became effective after December 27, 2020, are eligible for this 10 percent exception authority. In contrast, units added after December 27, 2020, through an amendment of a HAP contract that became effective on or prior to December 27, 2020, are not eligible for this 10 percent exception authority [FR Notice 1/24/22]. See Chapter 19 for policies specific to project basing FUPY vouchers.

CDA Policy

The CDA may project-base up to an additional 10 percent of its authorized units, up to 30 percent, in accordance with HUD regulations and requirements.

Units Not Subject to the PBV Program Limitation [FR Notice 1/18/17]

PBV units under the RAD program and HUD-VASH PBV set-aside vouchers do not count toward the 20 percent limitation when PBV assistance is attached to them.

In addition, units that were previously subject to certain federal rent restrictions or were receiving another type of long-term housing subsidy provided by HUD are not subject to the cap. The unit must be covered under a PBV HAP contract that first became effective on or after 04/18/17.CDA Policy.

The CDA may project-base units not subject to the 2- percent cap in accordance with HUD regulations and requirements. The CDA will project-base up to 120 former public housing scattered-site units noted above. These units are not subject to the 20 percent cap.

Public Housing Repositioning

In addition to developing a standard PBV program as described above, the CDA may also participate in the PBV program through public housing repositioning. Policies in this chapter may apply to units converted through repositioning depending on the type of activity undertaken by the CDA. If the CDA has any RAD PBV, Section 18, or RAD/Section 18 blend PBV units, policies governing those units are identified below.

CDA Policy

The CDA does have PBV units that were developed through public housing repositioning.

17-I.B. PBV DEFINITIONS [24 CFR 983.3]

The following terms apply to the PBV program and are used throughout this chapter:

Excepted units are units in a project not counted toward the project cap because they exclusively serve or are made available to certain families in accordance with 24 CFR 983.54(c)(2).

Excluded units are units in a project not counted toward the program cap or project cap because they meet certain criteria in accordance with 24 CFR 983.59.

Existing housing is a project that meets the following criteria:

- All the proposed contract units in the project either fully comply or substantially comply with housing quality standards on the proposal or project selection date, as determined per 24 CFR 983.103(a). (The units must fully comply with housing quality standards at the time required by 24 CFR 983.103(c). The units substantially comply with housing quality standards if:
  - The units only require repairs to current components or replacement of equipment and/or materials by items of substantially the same kind to correct deficiencies; and
  - The CDA determines all deficiencies can reasonably be corrected within a 30-day period, taking into consideration the totality of the deficiencies in the project.
- The CDA determines the project is not reasonably expected to require substantial improvement and the owner certifies it has no plans to undertake substantial improvement from the proposal submission date (for projects subject to competitive selection) or the project selection date (for projects excepted from competitive selection) through the first two years of the HAP contract.
- The following units do not qualify as existing housing:
  - Units for which rehabilitation or new construction began after proposal submission or the date of the Board resolution but prior to the effective date of an AHAP (if applicable); and
  - Units that were newly constructed or rehabilitated in violation of program requirements.

An *independent entity* is either:

- The unit of general local government; however, if the CDA itself is the unit of general local government or an agency of such government, then only the next level of general local government (or an agency of such government) or higher may serve as the independent entity; or
- A HUD-approved entity that is autonomous and recognized under state law as a separate legal entity from the CDA. The entity must not be connected financially (except regarding compensation for services performed for CDA-owned units) or in any other manner that could result in the CDA improperly influencing the entity.

An *in-place family* is a family residing in a proposed contract unit on the proposal or project selection date.

A *legacy non-RAD PBV unit* is PBV assistance in a covered project that prior to December 31, 2024, replaced public housing at the time of conversion and that is subject to a non-RAD PBV HAP contract.

Newly constructed housing is a project containing housing units that do not exist on the proposal or project selection date and are developed after the date of selection for use under the PBV program.

A *PHA-owned unit* is a dwelling unit in a project that is:

- Owned by the CDA (including having a controlling interest in the entity that owns the project);
- Owned by an entity wholly controlled by the CDA; or

- Owned by a limited liability company or limited partnership in which the CDA (or an entity wholly controlled by the CDA) holds a controlling interest in the managing member or general partner.

  - A *controlling interest* is:

    - Holding more than 50 percent of the stock of any corporation;
    - Having the power to appoint more than 50 percent of the members of the board of directors of a non-stock corporation (such as a nonprofit corporation);
    - Where more than 50 percent of the members of the board of directors of any corporation also serve as directors, officers, or employees of the CDA;
    - Holding more than 50 percent of all managing member interests in an LLC;
    - Holding more than 50 percent of all general partner interests in a partnership; or
    - Equivalent levels of control in other ownership structures.

A *project* can be a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land. "Contiguous" in this definition includes "adjacent to," as well as touching along a boundary or a point. The CDA may, in its administrative plan, establish the circumstances under which it will define a project as only one of the following: a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land.

CDA Policy
The CDA will not define circumstances that limit the definition of the term *project*.

Rehabilitated housing is a project which is developed for use under the PBV program, in which all proposed contract units exist on the proposal or project selection date, but which does not qualify as existing housing.

A *qualified census tract* is any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Income (AMI), or where the poverty rate is at least 25 percent and where the census tract is designated as a qualified census tract by HUD.

Substantial improvement is one of the following activities undertaken at a time beginning from the proposal submission date (for projects subject to competitive selection) or from the project selection date (for projects excepted from competitive selection), or undertaken during the term of the PBV HAP contract:

- Remodeling that alters the nature or type of housing units in a project;
- Reconstruction; or

A substantial improvement in the quality or kind of equipment and materials. The replacement of equipment and/or materials rendered unsatisfactory because of normal wear and tear by items of substantially the same kind does not constitute substantial improvement.

17-I.C. MAXIMUM NUMBER OF PBV UNITS (PERCENTAGE LIMITATION) [24 CFR 983.6]

Program Cap

If the CDA decides to operate a PBV program, the CDA's PBV program is funded with a portion

of appropriated funding (budget authority) available under the CDA's voucher Annual Contributions Contract (ACC). Except for certain units discussed below, the CDA may commit project-based assistance to no more than 20 percent of its authorized voucher units, as adjusted, at the time of commitment, with the ability to project-base an additional 10 percent of units that meet certain requirements. An analysis of impact must be conducted if the CDA is project-basing 50 percent or more of the CDA's authorized voucher units.

All PBV units which the CDA has selected (from the time of the proposal or project selection date) or which are under an Agreement to Enter into a HAP Contract (AHAP) or HAP contract for PBV assistance count toward the 20 percent maximum or increased cap. The CDA is responsible for determining the amount of budget authority that is available for project-based vouchers and for ensuring that the amount of assistance that is attached to units is within the amounts available under the ACC. Appendix I of Notice PIH 2017-21 contains a sample PBV program cap calculation worksheet. If PBV units are already selected for project-based assistance either under an AHAP or a HAP contract, the PHA is not required to reduce the number of units if the number of authorized units is subsequently reduced.

Increased Cap [24 CFR 983.6(d)]

The CDA may project-base an additional 10 percent of its authorized voucher units above the 20 percent program limit, provided the units meet requirements outlined in 24 CFR 983.6(d)(1) or (2). The units may be distributed among one, all, or a combination of the categories described below, as long as the total number of units does not exceed the 10 percent cap. The PBV HAP contract must specify, and the owner must set aside, the number of units meeting the conditions to qualify for the increased program cap. To qualify for the increased program cap, the unit must be occupied by the type of family specified in the applicable paragraph below.

For units under a HAP contract that was first executed on or after April 18, 2017, or added on or after that date to a current HAP contract entered into prior to April 19, 2017, units qualify under the increased program cap if the units meet one or more of the conditions below [24 CFR 983.6(d)(1)]:

- The units are specifically made available to house individuals and families that meet the definition of *homeless* under section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302) and contained in the Continuum of Care Interim Rule at 24 CFR 578.3.
  - A family qualifies if they were homeless at the time the family first occupies the unit.
- The units are specifically made available to house families that are comprised of or include a veteran at the time the family first occupies a unit.
  - A *veteran* is person who served in the active military, naval, air, or space service, and who was discharged or released therefrom.
- The units provide supportive housing to persons with disabilities or elderly persons as defined in 24 CFR 5.403.
  - A disabled or elderly member of the family must be eligible for one or more of the supportive services at the time the family first occupies the unit. The member of the family may choose not to participate in the services.

- *Supportive housing* means that the project makes supportive services available for all of the assisted families in the project and provides a range of services tailored to the needs of the residents occupying such housing.
- Such supportive services need not be provided by the owner or onsite but must be reasonably available to the families receiving PBV assistance in the project.
- The CDA's administrative plan must describe the type and availability of supportive services the CDA will consider as qualifying for the 10 percent increased cap.

- The units are located in areas where vouchers are difficult to use.
- The units replace, on a different site, units listed in 24 CFR 983.59(b)(1) and (2) for which the CDA had authority under 24 CFR 983.59 to commit PBV assistance on the original site without the units counting toward the program cap or project cap.

The increased program cap also applies to units that are part of a HAP contract executed on or after December 27, 2020, or are added on or after that date to any current HAP contract, including a contract entered into prior to December 27, 2020, and meet the following requirements [24 CFR 983.6(d)(2)]:

- The units are exclusively made available to eligible youth receiving Family Unification Program (FUP) or Foster Youth to Independence (FYI) assistance; and
- If the units exclusively made available to eligible youth use FUP assistance that is normally available for eligible families and youth, the PHA determines and documents that the limitation of the units to youth is consistent with the local housing needs of both eligible FUP populations (families and youth) and amends its administrative plan to specify that FUP PBV assistance is solely for eligible youth.

CDA Policy

The CDA will consider project-basing up to an additional 10 percent of its authorized units, up to 30 percent, in accordance with HUD regulations and requirements.

17-I.D. CAP ON NUMBER OF PBV UNITS IN EACH PROJECT [24 CFR 983.54]

Project Cap [24 CFR 983.54(a)]

In general, the CDA may not select a proposal for units in a project or enter into an AHAP or a HAP contract to provide PBV assistance for units in a project if the total number of dwelling units in the project that will receive PBV assistance is more than the greater of 25 units or 25 percent of the number of dwelling units (assisted or unassisted, as adjusted) in the project.

Higher Project Cap [24 CFR 983.54(b)]

The CDA may provide PBV assistance to the greater of 25 units or 40 percent of the number of dwelling units (assisted and unassisted, as adjusted) in the project if the project is located in an area where vouchers are difficult to use [24 CFR 983.54(b)]. An area where a voucher is difficult to use is defined as:

- A census tract with a poverty rate of 20 percent or less, as determined by HUD;
- A ZIP code area where the rental vacancy rate is less than 4 percent, as determined by HUD; or
- A ZIP code area where 90 percent of the Small Area FMR is more than 110 percent of the metropolitan area or county FMR.

Exceptions to the Project Cap [24 CFR 983.54(c)]

Certain units are removed from the number of dwelling units for purposes of calculating the project cap. These are known as *excepted units,* which are defined as units in a project not counted toward the project cap because they exclusively service or are made available to certain families.

The CDA determines the number of units in the project for which the CDA will provide project-based assistance, including whether and how many units will be excepted. The PBV HAP contract must specify, and the owner must set aside, the number of excepted units made available for occupancy by families who qualify for the exception. For a unit to be considered excepted, it must be occupied by a family who qualifies for the exception.

Which units are considered excepted differs depending on when the HAP contract was executed. Contracts executed prior to April 18, 2017, follow the "old" statutory PBV requirements for excepted units. Projects where the HAP contract was executed on or after April 18, 2017, follow new requirements. In this case, PBV units are not counted toward the project cap if the units are:

- Exclusively for elderly families;
- Exclusively made available to eligible youth receiving FUP or FYI assistance; or
- For households eligible for supportive services available to all families receiving PBV assistance in the project.

A project is not limited to a single exception category but may include excepted units from any of the exception categories.

CDA Policy
The CDA will have excepted units in certain PBV projects.

Units that No Longer Qualify as Excepted Units or Units under the Increased Program Cap [24 CFR 983.262(b)]

In order to qualify as either excepted units or units under the increased program cap, units must be occupied by a family that meets the exception criteria applicable to the unit. Once the family vacates the unit, the CDA must select a new family from the waiting list via an admission preference, and the unit must be made available to and occupied by a family that meets the applicable exception.

The CDA must specify in its administrative plan which of the options below the CDA will take if a unit is no longer qualified due to circumstances beyond the control of the family (e.g., death of an elderly family member or long-term permanent hospitalization or nursing care).

The unit may continue to count as an excepted unit or unit on the increased program cap as long as the family resides in the unit. However, the requirements on wrong-sized units apply.

If the CDA chooses not to exercise this discretion, the unit is no longer considered excepted or a unit under the increased program cap (as applicable) and the family is not required to move from the unit. The CDA must specify which of the following actions it will take if the unit is no longer qualified:

- Substitute the unit for another unit if it is possible to do so in accordance with 24 CFR 983.207(a), so that the overall number of excepted units or units under the increased program cap in the project is not reduced. The CDA may, in conjunction with such substitution, add the original unit to the HAP contract if it is possible to do so in accordance with 24 CFR 983.207(b), including that such addition does not cause the CDA to exceed the program cap or become non-compliant with the project cap.

- Remove the unit from the PBV HAP contract. In conjunction with the removal, the CDA may provide the family with tenant-based assistance, if the family is eligible for tenant-based assistance. The family and the owner may agree to use the tenant-based voucher in the unit; otherwise, the family must move from the unit with the tenant-based voucher. If the family later vacates the unit, the CDA may add the unit to the PBV HAP contract in accordance with 24 CFR 983.207.
- Change the unit's status under the project cap or program cap, as applicable, provided that the change does not cause the CDA to exceed the program cap or become non-compliant with the project cap.

CDA Policy
If, due to circumstances beyond the control of the family, the unit is no longer qualified as an excepted unit or unit under the increased program cap, the unit will continue to count as long as the family resides in the unit. However, requirements for wrong-sized units will apply.

17-I.E. UNITS NOT SUBJECT TO THE PBV PROGRAM CAP OR PROJECT CAP [FR Notice 1/18/17 and 24 CFR 983.59]

For HAP contracts that first became effective on or after April 18, 2017, the CDA may commit project-based assistance to units that meet the requirements below without the units counting toward the program cap (including the 10 percent exception) or project cap. These are known as *excluded units* and fall into two different categories:

- **Existing or Rehabilitation Units:** In the five years prior to the request for proposals (RFP) or the proposal or project selection date (in the case of selection without RFP), these units fall into one of the categories described below, provided that the units are removed from all categories prior to the effective date of the HAP contract. These units include units that received one of the following forms of HUD assistance:
  - Public Housing Capital or Operating Funds;
  - Project-Based Rental Assistance (Section 8), including units assisted under Section 8 Moderate Rehabilitation (Mod Rehab) and Mod Rehab Single-Room Occupancy (SRO) programs;
  - Housing for Elderly (Section 202);
  - Housing for Persons with Disabilities (Section 811);
  - Rental Assistance Program (RAP) (Section 236(f)(2) of the National Housing Act); or Flexible Subsidy Program (Section 201 of the Housing and Community Development Amendments of 1978).

  Or the units have been subject to a federally required rent restriction under one of the following programs:
  - The Low-Income Housing Tax Credit program (26 U.S.C. 42);
  - Section 515 Rural Rental Housing Loans (42 U.S.C. 1485); or
  - The following HUD programs:
  - Section 236;
  - Section 221(d)(3) Below Market Interest Rate;

- Housing For the Elderly (Section 202 of the Housing Act of 1959);
- Housing for Persons with Disabilities (Section 811 of the Cranston-Gonzalez National Affordable Housing Act);
- Flexible Subsidy Program (Section 201 of the Housing and Community Development Amendments Act of 1978); or
- Any other program identified by HUD through Federal Register notice subject to public comment.

- categories described below, provided that the units are removed from all categories prior to the effective date of the HAP contract. These units include units that received one of the following forms of HUD assistance:
  - Public Housing Capital or Operating Funds;
  - Project-Based Rental Assistance (Section 8), including units assisted under Section 8 Moderate Rehabilitation (Mod Rehab) and Mod Rehab Single-Room Occupancy (SRO) programs;
  - Housing for Elderly (Section 202);
  - Housing for Persons with Disabilities (Section 811);
  - Rental Assistance Program (RAP) (Section 236(f)(2) of the National Housing Act); or Flexible Subsidy Program (Section 201 of the Housing and Community Development Amendments of 1978).

  Or the units have been subject to a federally required rent restriction under one of the following programs:
  - The Low-Income Housing Tax Credit program (26 U.S.C. 42);
  - Section 515 Rural Rental Housing Loans (42 U.S.C. 1485); or
  - The following HUD programs:
  - Section 236;
  - Section 221(d)(3) Below Market Interest Rate;
  - Housing For the Elderly (Section 202 of the Housing Act of 1959);
  - Housing for Persons with Disabilities (Section 811 of the Cranston-Gonzalez National Affordable Housing Act);
  - Flexible Subsidy Program (Section 201 of the Housing and Community Development Amendments Act of 1978); or
  - Any other program identified by HUD through Federal Register notice subject to public comment.
- **Replacement Units:** Newly constructed units developed under the PBV program are also considered excluded units if the primary purpose of the newly constructed units is or was to replace units that meet the criteria listed above. The newly constructed unit must be located on the same site as the unit it is replacing; however, an expansion of or modification to the prior project's site boundaries as a result of the design of the newly constructed project is acceptable as long as a majority of the replacement units are built back on the site of the original project

and any replacement units that are not located on the existing site are part of a project that shares a common border with, are across a public right of way from, or touch that site. In addition, in order for the replacement units to be excluded from the program and project caps, one of the following must be true:

- Former residents of the original project must be provided with a selection preference that provides the residents with the right of first occupancy at the PBV newly constructed project when it is ready for occupancy; or
- Prior to the demolition of the original project, the PBV newly constructed project must have been identified as replacement housing for that original project as part of a documented plan for the redevelopment of the site.

PHA Policy

Units in the following projects are not subject to the program cap or project cap because they are excluded units: N/A

17-I.F. CDA-OWNED UNITS [24 CFR 982.4 and 983.57]

For CDA-owned units (as defined in 24 CFR 982.4), an independent entity (as defined in 24 CFR 982.4) must perform the following functions:

- Determine rent to owner, including rent reasonableness and calculating any rent adjustments by HUD's Operating Cost Adjustment Factor (OCAF) (where applicable), in accordance with 24 CFR 983.301 through 983.305;
- Perform unit inspections in accordance with 24 CFR 983.103(g);
- When the owner carries out development activity or substantial improvement, the independent entity must review the evidence and work completion certification submitted by the owner and determine if the units are complete in accordance with 24 CFR 983.156; and
- Determine whether to approve substantial improvement to units under a HAP contract in accordance with 24 CFR 983.212.

The CDA may only compensate the independent entity from CDA ongoing administrative fee income (including amounts credited to the administrative fee reserve). The CDA may not use other program receipts to compensate the independent entity for its services. The CDA and independent entity may not charge the family any fee for the appraisal, or the services provided by the independent entity.

CDA Policy

The CDA may submit a proposal or select a project that is owned or controlled by the CDA. The CDA will obtain HUD approval prior to selecting CDA-owned housing.

17-VI.B. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(a) and (b)]

The CDA may select families for the PBV program from those who are participants in the CDA's tenant-based voucher program and from those who have applied for admission to the voucher program. For voucher participants, eligibility was determined at original admission to the voucher program and does not need to be redetermined at the commencement of PBV assistance. For all others, eligibility for admission must be determined at the commencement of PBV assistance.

Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and the CDA, meet asset limit requirements, have income at or below HUD-specified income limits, and qualify based on citizenship or the eligible immigration status of family members [24 CFR 982.201(a) and 24 CFR 983.2(a)]. In addition, an applicant's family must provide social security information for family members [24 CFR 5.216 and 5.218] and consent to the CDA's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. The CDA may also not approve a tenancy if the owner (including a principal or other interested party) of the unit is the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless needed as a reasonable accommodation. An applicant family must also meet HUD requirements related to current or past criminal activity.

CDA Policy

The CDA will determine an applicant family's eligibility for the PBV program in accordance with the policies in Chapter 3.

In-Place Families [24 CFR 983.251(b)]

An eligible family residing in a proposed PBV contract unit on the date the proposal is selected by the CDA is considered an "in-place family." These families are afforded protection from displacement under the PBV rule. If a unit to be placed under contract (either an existing unit or a unit requiring rehabilitation) is occupied by an eligible family on the date the proposal is selected, the in-place family must be placed on the CDA's waiting list. Once the family's continued eligibility is determined (the CDA may deny assistance to an in-place family for the grounds specified in 24 CFR 982.552 and 982.553), the family must be given an absolute selection preference and the CDA must refer these families to the project owner for an appropriately sized PBV unit in the project. Admission of eligible in-place families is not subject to income targeting requirements.

During the initial term of the lease under the tenant-based tenancy, an in-place tenant-based voucher family may agree, but is not required, to mutually terminate the lease with the owner and enter into a lease and tenancy under the PBV program. If the family chooses to continue the tenant-based assisted tenancy, the unit may not be added to the PBV HAP contract. The owner may not terminate the lease for other good cause during the initial term unless the owner is terminating the tenancy because of something the family did or failed to do in accordance with 24 CFR 982.310(d)(2). The owner is expressly prohibited from terminating the tenancy during the initial term of the lease based on the family's failure to accept the offer of a new lease or revision, or for a business or economic reason.

If, after the initial term, the owner chooses not to renew the lease or terminates the lease for other good cause (as defined in 24 CFR 982.310(d)) to end the tenant-based assisted tenancy, the family would be required to move with continued tenant-based assistance or relinquish the tenant-based voucher and enter into a new lease to receive PBV assistance in order to remain in the unit.

~~This regulatory protection from displacement does not apply to families that are not eligible to participate in the program on the proposal selection date.~~

17-VI.C. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c)]

~~T~~

Applicants who will occupy units with PBV assistance must be selected from the waiting list for the PBV program. The CDA or owner (as applicable) may establish selection criteria or preferences for occupancy of particular PBV units. The CDA may place families referred by the

PBV owner on its PBV waiting list. The CDA must establish in the administrative plan the options it will use to structure the PBV waiting list. The CDA may:

- Use a separate, central, waiting list comprised of more than one or all PBV projects;
- Use the same waiting list for both tenant-based and some or all PBV projects;
- Use a separate waiting list for PBV units in individual projects or buildings (or for sets of such units) (which may be used in combination with either of the above options and may be maintained by the owner); or
- Merge the PBV waiting list with a waiting list for other assisted housing programs offered by the CDA.

If the CDA chooses to offer a separate waiting list for PBV assistance, the CDA must offer to place applicants who are listed on the tenant-based waiting list on the waiting list for PBV assistance. The CDA must specify the name of the PBV projects in its administrative plan.

~~he CDA may establish a separate waiting list for PBV units, or it may use the same waiting list for both tenant-based and project-based assistance. The CDA may also merge the PBV waiting list with a waiting list for other assisted housing programs offered by the CDA. If the CDA chooses to offer a separate waiting list for PBV assistance, the CDA must offer to place applicants who are listed on the tenant-based waiting list on the waiting list for PBV assistance.~~

~~If a CDA decides to establish a separate PBV waiting list, the CDA may use a single waiting list for the CDA's whole PBV program, or it may establish separate waiting lists for PBV units in particular projects or buildings or for sets of such units.~~

CDA Policy

The CDA will use a separate waiting list for both tenant-based and project-based assistance.

17-VI.D. SELECTION FROM THE WAITING LIST [24 CFR 983.251(c)]

~~Applicants who will occupy units with PBV assistance must be selected from the CDA's waiting list. The CDA may establish selection criteria or preferences for occupancy of particular PBV units. The CDA may place families referred by the PBV owner on its PBV waiting list.~~

Income Targeting [24 CFR 983.251(c)(6)]

At least 75 percent of the families admitted to the CDA's tenant-based and project-based voucher programs during the CDA fiscal year from the waiting list must be extremely low-income families. The income targeting requirement applies to the total of admissions to both programs.

Units with Accessibility Features [24 CFR 983.251(c)(7)]

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, the CDA must first refer families who require such features to the owner.

~~**Preferences [24 CFR 983.251(d), FR Notice 11/24/08]**~~

~~The CDA may use the same selection preferences that are used for the tenant-based voucher program, establish selection criteria or preferences for the PBV program, or for occupancy of particular PBV developments or units. The CDA must provide an absolute selection preference for eligible in-place families as described in Section 17-VI.B. above.~~

~~The CDA may establish a selection preference for families who qualify for voluntary services, including disability-specific services, offered in conjunction with assisted units, if preference is consistent with the CDA Plan. The CDA may not, however, grant a preference to a person with a specific disability [FR Notice 1/18/17].~~

~~In advertising such a project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible disabled persons who may benefit from services provided in the project. In these projects, disabled residents may not be required to accept the services offered as a condition of occupancy.~~

~~If the CDA has projects with "excepted units" for elderly families or supportive services, the CDA must give preference to such families when referring families to these units [24 CFR 983.261(b); FR Notice 1/18/17].~~

~~CDA Policy~~

~~The CDA will provide a selection preference when required by the regulation (e.g., eligible in-place families, or mobility impaired persons for accessible units). The CDA will offer an additional preference for PBV projects or units that offer supportive services.~~

17-VI.E. OFFER OF PBV ASSISTANCE

Refusal of Offer [24 CFR 983.251(e)(3)]

If a family refuses the CDA's offer of PBV assistance or the owner rejects a family for admission, the family's position on the CDA waiting list for tenant-based assistance is not affected regardless of the type of PBV waiting list used by the CDA. The impact (of a family's rejection of the offer or the owner's rejection of the family) on a family's position on the PBV waiting list will be determined as follows:

- If a central PBV waiting list is used, the CDA's administrative plan must address the number of offers a family may reject without good cause before the family is removed from the PBV waiting list and whether the owner's rejection will impact the family's place on the PBV waiting list.
- If a project-specific PBV waiting list is used, the family's name is removed from the project's waiting list connected to the family's rejection of the offer without good cause or the owner's rejection of the family. The family's position on any other project-specific PBV waiting list is not affected.
- The CDA must define *good cause* in its administrative plan. The CDA's definition of *good cause* must include, at minimum, that:
  - The family determines the unit is not accessible to a household member with a disability or otherwise does not meet the member's disability-related needs;
  - The unit has housing quality standards deficiencies;
  - The family is unable to accept the offer due to circumstances beyond the family's control (such as hospitalization, temporary economic hardship, or natural disaster); and
  - The family determines the unit presents a health or safety risk to a household member who is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

CDA Policy

The CDA will define *good cause* for rejection of a unit offer as any of the factors listed above.

The CDA is prohibited from taking any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

- Refuse to list the applicant on the waiting list for tenant-based voucher assistance;
  - The CDA (or owner in the case of owner-maintained waiting lists) is not required to open a closed waiting list to place the family on that waiting list.
- Deny any admission preference for which the applicant qualifies;
- Change the applicant's place on the waiting list based on preference, date, and time of application, or other factors affecting selection under the CDA's selection policy;
- Remove the applicant from the tenant-based voucher waiting list.

~~**Disapproval by Landlord [24 CFR 983.251(e)(2)]**~~

~~If a PBV owner rejects a family for admission to the owner's units, such rejection may not affect the family's position on the tenant-based voucher waiting list.~~

Acceptance of Offer [24 CFR 983.252]

Family Briefing

When a family accepts an offer for PBV assistance, the CDA must give the family an oral briefing. The briefing must include information on how the program works and the responsibilities of the family and owner.

In addition to the oral briefing, the CDA must provide a briefing packet that contains the following information:

~~explains how the CDA determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.~~

- How the CDA determines the total tenant payment for a family;
- The family obligations under the program;
- Information on federal, state, and local equal opportunity laws, the contact information for the Section 504 coordinator, a copy of the housing discrimination complaint form, and information on how to request a reasonable accommodation or modification under Section 504, the Fair Housing Act, and the Americans with Disabilities Act;
- CDA subsidy standards, including when the CDA will consider granting exceptions to the standards, and when exceptions are required as a reasonable accommodation for a person with disabilities under Section 504, the Fair Housing Act, or the American with Disabilities Act; and
- The family's right to move

The CDA and family must sign the Form HUD-52578-B OBV Statement of Family Responsibility.

CDA Policy

Once families have accepted the CDA's unit offer, they will be informed of their requirement to participate in a PBV program briefing. Briefings will be conducted prior to the

execution of the family's lease. Briefings will typically be conducted individually and may be conducted in person or remotely. Remote briefings will follow the requirements of Notice PIH 2020-32.

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

Persons with Disabilities

If an applicant family's head or spouse is disabled, the CDA must assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available (see Chapter 2). In addition, the CDA must have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

~~***Persons with Limited English Proficiency***~~

~~The CDA should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166 (see Chapter 2).~~

CHAPTER 18

TARGETED RENTAL ASSISTANCE

INTRODUCTION

The CDA administers several rental assistance programs which are targeted at specific populations.

Special purpose vouchers are specifically funded by Congress in separate appropriations from regular HCV program funding in order to target specific populations. Special purpose vouchers include vouchers for the following programs:

- Family Unification Program (FUP)
- Foster Youth to Independence (FYI) program
- Veterans Affairs Supportive Housing (VASH)
- Mainstream
- Non-Elderly Disabled (NED)

CDA Policy

The CDA will administer the following types of special purpose vouchers:

This chapter describes HUD regulations and CDAA policies for administering special purpose vouchers. The policies outlined in this chapter are organized into five sections, as follows:

Part I: Family Unification Program (FUP)

Part II: Veterans Affairs Supportive Housing (VASH)

Part III: Mainstream voucher program

Except as addressed by this chapter and as required under federal statute and HUD requirements, the general requirements of the HCV program apply to special purpose vouchers.

This Chapter covers all other federal, state and locally funded rental assistance programs. For these programs, all other policies described in the Administrative Plan are applicable, except as described in this Chapter or another program guide.

Part VI: Lincoln Place

Part V: Emergency Housing Vouchers (EHV's)

PART I: FAMILY UNIFICATION PROGRAM

18-I.A. PROGRAM OVERVIEW [Fact Sheet, Housing Choice Voucher Program Family Unification Program (FUP) Notice PIH 2025-08]

The Family Unification Program (FUP) was authorized by Congress in 1990 to help preserve and reunify families. CDAs that administer the program provide vouchers to two different populations—FUP families (FUPF) and FUP youth (FUPY).

Families eligible for FUPF vouchers are families for whom the lack of adequate housing is a primary factor in:

- The imminent placement of the family's child or children in out-of-home care; or
- The delay in the discharge of the child or children to the family from out-of-home care.

There is no time limitation on FUPF ~~family~~ vouchers, and the family retains their voucher as long as they are HCV-eligible. There is no requirement for the provision of supportive services for FUPF ~~family~~ vouchers.

Youth eligible for FUPY vouchers are those who:

- Are at least 18 years old and not more than 24 years of age;
- Have left foster care or will leave foster care within ~~90~~180 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act at age 16 and older; and
- Are homeless or at risk of becoming homeless.

FUPY ~~youth~~ vouchers are limited by statute to a period between 36 and 60 months of housing assistance. Supportive services must also be provided to FUP-eligible youth by the Public Child Welfare Agency (PCWA) or by another agency or organization under contract with the PCWA for the period of time defined in the notice or Notice of Funding Availability/Opportunity (NOFA/O) for which funding was made available.

CDAs that wish to administer FUP vouchers must apply to HUD by applying under an active Notice of Funding Opportunity (NOFO). While the FUP program is administered in accordance with HCV regulations, the FUP NOFOs issued by HUD provide specific program information and requirements.

In order to administer the program, the CDA must also form a partnership with a local PCWA who is responsible for determining if the family or youth meets FUP eligibility requirements and

referring them to the CDA. Once the referral is received, the CDA is responsible for placing the FUP family or youth on the CDA's waiting list and determining whether they are eligible to receive assistance under the CDA's HCV program.

FUP and FYI vouchers are subject to the requirements in Section 8(x) of the 1937 Act and 24 CFR 982, 983 (as applicable) and the Fostering Stable Housing Opportunities (FSHO) Amendments *Federal Register* notice except as provided in Notice PIH 2025-08 and any subsequent notice issued by HUD.

The Consolidated Appropriations Act, 2024 (Public Law 118-42) authorized HUD to establish waivers and alternative requirements for FUP and FYI vouchers that are necessary for the effective delivery and administration of funds. HUD may waive or specify alternative requirements for regulatory provisions related to the administration of waiting lists, local preferences, and the initial term and extensions of tenant-based vouchers. Additionally, HUD may also waive or specify alternative requirements regarding the timing of referral of youth leaving foster care. HUD is not permitted to waive requirements related to tenant rights and protections, rent setting, fair housing, nondiscrimination, labor standards, and the environment.

Assigning Vouchers [FUP FAQs]

The CDA may, but is not required to, assign a specific number or percentage of FUP vouchers for FUP youths (FUPY) and FUP families (FUPF). Unless the CDA assigns a specific number or percentage of FUP vouchers to a designated FUP population, the CDA must serve any referrals (youths or families) that meet all program eligibility requirements up to the CDA's designated FUP program size.

CDA Policy

The CDA has not designated any specific number or percentage of FUP vouchers for youths or families. The CDA will serve all referrals that meet program eligibility requirements, up to the CDA's FUP voucher allocation.

18-I.B. PARNTERING AGENCIES [Notice PIH 2025-182023-04; ~~FYI Updates and Partnering Opportunities Webinar~~]

Public Child Welfare Agency (PCWA)

Families and youth do not apply directly to the CDA for FUP vouchers. They are instead referred by a PCWA with whom the CDA has entered into a Memorandum of Understanding (MOU). The partnering PCWA initially determines whether the family or youth meets the FUP program eligibility requirements listed in 18-I.C and 18-I. D and then refers those families or youths to the CDA who determines whether the family or youth meets HCV program eligibility requirements. The CDA conducts all other processes relating to voucher issuance and administration.

Referrals may also be received from other agencies such as the Continuum of Care (COC), or a state, local, educational, philanthropic, or faith-based organization. HUD strongly encourages CDAs and PCWAs to make decisions collaboratively on the administration of the program and to maintain open and continuous communication. In cases where the referral comes from a third-party partner, the PCWA and CDA are still responsible for determining eligibility as outlined above, including the PWCA's written certification that the youth is eligible. The PCWA must have a system for identifying FUP-eligible youth within the agency's caseload and for reviewing

referrals from a Continuum of Care (COC) if applicable.

CDA Policy

The CDA has entered into an MOU with the following partnering organization: Dakota County Community Services.

18-I.D. FUP YOUTH VOUCHER ELIGIBILTY CRITERIA ~~[Notice PIH 2023-04; FYI Q&As; FYI FAQs]~~

While FUP family vouchers operate as regular HCVs after the family is referred from the PCWA, there are several aspects of the FUP youth vouchers that make them distinct from the FUP family vouchers and from regular HCVs.

Eligibility Criteria

A FUP-eligible youth is a youth the PCWA has certified:

- Is at least 18 years old and not more than 24 years of age (has not yet reached their 25th birthday);
  - The FUP youth must be no more than 24 years old at the time the PCWA certifies them as eligible and at the time of HAP contract execution.
- Has left foster care or will leave foster care within ~~90~~180 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act;
  - Foster care placement can include, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes in accordance with 24 CFR 5.576.
- Is homeless or at risk of becoming homeless at age 16 or older;
  - *At risk of being homeless* is fully defined at 24 CFR 576.2.
    - This includes a person that is exiting a publicly funded institution, or system of care (such as a healthcare facility, a mental health facility, foster care or other youth facility, or correction program or institution).
    - Therefore, youth being discharged from an institution may be eligible for a FUP voucher [FUP FAQs].
- Has an annual income at or below 30 percent of area median income; and
- Does not have sufficient resources or support networks (e.g., family, friends, faith-based or other social networks) immediately available to prevent them from moving to a supervised publicly or privately operated shelter designed to provide temporary living arrangements.

18-I.F. REFERRALS AND WAITING LIST MANAGEMENT ~~[Notice PIH 2023-04; FYI Updates and Partnering Opportunities Webinar FYI FAQs]~~

Referrals

The PCWA must establish and implement a system to identify FUP-eligible families and youths within the agency's caseload and make referrals to the CDA. The PCWA must certify that the FUP applicants they refer to the CDA meet FUP eligibility requirements. The CDA is not required to maintain full documentation that demonstrates the family's or youth's FUP eligibility as

determined by the PCWA but should keep the referral or certification from the PCWA.

CDA Policy

As part of the MOU, the CDA and PCWA have identified staff positions to serve as lead FUP liaisons. These positions will be responsible for transmission and acceptance of FUP referrals. The PCWA must commit sufficient staff and resources to ensure eligible families and youths are identified and determined eligible in a timely manner.

When FUP vouchers are available, the CDA liaison responsible for acceptance of referrals will contact the PCWA FUP liaison via email indicating the number of vouchers available and requesting an appropriate number of referrals. No more than 10 business days from the date the PCWA receives this notification, the PCWA liaison will provide the CDA with a list of eligible referrals include the name, address, and contact phone number for each adult individual who is being referred; a completed release form for each adult family member; and a written certification for each referral indicating the youth or family is FUP-eligible.

The CDA will maintain a copy of the referral or certification from the PCWA in the participant's file along with other eligibility paperwork.

The CDA must serve any referrals (youths or families) that meet all program eligibility requirements. If the CDA determines that it has received a sufficient number of referrals from the PCWA so that the CDA will be able to lease all FUP vouchers awarded, the CDA may request that the PCWA suspend transmission of referrals. If the CDA determines that additional referrals will be needed after it has made such a request, the CDA may request that the PCWA resume transmission of referrals [Notice PIH 2011-52].

Waiting List Placement [Notice PIH 2025-08~~2023-04 and FYI FAQs~~]

A family that is already participating in the regular HCV program cannot be transferred to a FUP voucher.

HCV regulations require the CDA to use a single waiting list for admission to its Section 8 tenant-based assistance program. To enable the CDA to more effectively allocate FUP and vouchers, HUD waived 24 CFR 982.204(f) and is establishing an optional waiver to allow the CDA to maintain a separate waiting list for FUP and FYI vouchers.

~~Once a referral is made, the CDA must compare the list of PCWA referrals to its HCV waiting list to determine if any applicants on the PCWA's referral list are already on the CDA's HCV waiting list. Applicants already on the CDA's HCV waiting list retain the order of their position on the list. Applicants not already on the CDA's HCV waiting list must be placed on the HCV waiting list.~~

~~If the CDA's HCV waiting list is closed, the CDA must open its HCV waiting list in order to accept new FUP applicants. If necessary, the CDA may open its waiting list solely for FUP applicants, but this information must be included in the CDA's notice of opening its waiting list (see section 4-II.C., Opening and Closing the Waiting List of this administrative plan).~~

CDA Policy

The CDA will not maintain a separate waiting for FUP and FYI vouchers.

Within 10 business days of receiving the referral from the PCWA, the CDA will review the HCV waiting list and will send the PCWA a list confirming whether or not referrals are on the waiting list.

Referrals who are already on the list will retain their position and the list will be

notated to indicate the family or youth is FUP-eligible.

For those referrals not already on the waiting list, the CDA will work with the PCWA to ensure they receive and successfully complete a pre-application or application, as applicable. Once the pre-application or application has been completed, the CDA will place the referral on the HCV waiting list with the date and time of the original referral and an indication that the referral is FUP-eligible.

If the CDA's HCV waiting list is closed, the CDA will open its HCV waiting list in order to accept new FUP applicants. If necessary, the CDA may open its waiting list solely for FUP applicants, but this information must be included in the CDA's notice of opening its waiting list (see section 4-II.C., Opening and Closing the Waiting List of this administrative plan).

Waiting List Selection [Notice PIH 2025-08]

The CDA selects FUP-eligible families or youths based on the CDA's regular HCV waiting list selection policies in Chapter 4, including any preferences that may apply, with the exception of any residency preferences which may not be applied to FUP or FYI applicants. In addition, the CDA may establish separate preferences for FUP and FYI applicants.

CDA Policy

The CDA will apply targeted funding preference points to FUP applicants.

18-I.G. CDA HCV ELIGIBILITY DETERMINATION

Once a FUP-eligible family or youth is selected from the HCV waiting list, the CDA must determine whether the family or youth meets HCV program eligibility requirements. Applicants must be eligible under both FUP family or youth eligibility requirements, as applicable, and HCV eligibility requirements as outlined in Chapter 3 of this policy.

The PCWA may, but is not obligated to, provide information to the CDA on the family's criminal history.

CDA Policy

Subject to privacy laws, the PCWA will provide any available information regarding the applicant's criminal history to the CDA.

The CDA will consider the information in making its eligibility determination in accordance with the CDA's policies in Chapter 3, Part III.

Additional FUP Eligibility Factors [FUP FAQs]

For FUP family vouchers, the family must remain FUP-eligible through lease-up.

- If, after a family is referred by the PCWA but prior to issuing a family FUP voucher, the CDA discovers that the lack of adequate housing is no longer a primary factor for the family not reunifying, the FUP voucher may not be issued to the family.
- Similarly, if the FUP voucher has already been issued before the CDA discovers that the reunification will not happen, but the family has not yet leased up under the voucher, the CDA must not execute the HAP contract, as the family is no longer FUP-eligible.

FUP-eligible youth must be no more than 24 years old both at the time of PCWA certification and

at the time of the HAP execution. If a FUP youth is 24 at the time of PCWA certification but will turn 25 before the HAP contract is executed, the youth is no longer eligible for a FUP youth voucher. While a youth may be referred for a FUPY or FYI voucher before reaching the age of 18, the CDA must not enter into a HAP contract on behalf of the youth until the youth reaches the age of 18.

CDA Policy

Any applicant that does not meet the eligibility criteria for the HCV program listed in Chapter 3 or any eligibility criteria listed in this section will be notified by the CDA in writing following policies in Section 3-III.F., including stating the reasons the applicant was found ineligible and providing an opportunity for an informal review.

18-I.H. LEASE UP [FR Notice 1/24/22]

Once the CDA determines that the family or youth meets HCV eligibility requirements, the family or youth will be issued a FUP voucher in accordance with CDA policies.

Briefings [FR Notice 1/24/22]

During the family briefing, the CDA must inform the FUP youth of:

- The extension of assistance provisions and requirements;
- The availability of the FSS program and offer them an FSS slot, if available, or offer to place them on the FSS waiting list (provided the CDA has an FSS program); and
- Supportive services available to them, the existence of any other programs or services, and their eligibility for such programs and services. However, participation in supportive services cannot be required as a condition of receiving FUP youth assistance.

CDA Policy

Eligible applicants will be notified by the CDA in writing following policies in Section 3-III.F. of this administrative plan. FUP families and youth will participate in a standard HCV briefing in accordance with CDA policies in Part I of Chapter 5 of this administrative plan. The CDA will provide all aspects of the written and oral briefing as outlined in Part I of Chapter 5 but will also provide an explanation of the required items listed above, as well as discussing supportive services offered by the PCWA.

For both FUP youth and FUP families, vouchers will be issued in accordance with CDA policies in Chapter 5 Part II.

Once the family or youth locate a unit, the CDA conducts all other processes relating to voucher issuance and administration per HCV program regulations and the CDA's policies (including, but not limited to: HQS inspection, determination of rent reasonableness, etc.).

Voucher Issuance [Notice PIH 2025-08]

The initial search term for FUP vouchers must be at least 120 days from the date the voucher is issued. The initial 120-day term also applies when a family or youth chooses to move to a new unit with continued assistance inside or outside the CDA's jurisdiction.

The CDA must adopt an extension policy for FUP applicants that includes the following:

- Each extension must be for a minimum of 90 days;

- The CDA must approve the first extension request, regardless of how the request is made (written or oral) or when it is made, as long as the request is made on or before the voucher term expiration date and is consistent with applicable requirements;
- Subsequent requests should be processed in accordance with the CDA's administrative plan; and
- The CDA must, on at least one occasion after voucher issuance, notify the applicant prior to the initial term expiration, to remind them about the term expiration date and the process for requesting an extension of the initial term, and to inquire if the applicant is in need of assistance with their housing search.

If a family or youth with a disability requires additional time to search for their unit, the CDA must provide an extension as a reasonable accommodation. The CDA's administrative plan must describe its policies for granting extensions of the initial 120-day term and provide clear instructions to the family and/or youth on the procedures for requesting an extension.

CDA Policy

All FUP vouchers will have an initial term of 120 calendar days. The CDA will notify the applicant in writing via email and/or through a phone call at least 30 days prior to the expiration of the initial term of the voucher and inquire if the applicant is in need of assistance with their housing search. The CDA will also remind the applicant of the housing search assistance that is available to them as set forth in the CDA's partnership agreements.

Upon written or oral request of the applicant (either through an email, phone call, or through a written form), the CDA will automatically approve one 90-day extension to the initial voucher term as long as the request is made prior to the expiration date of the initial voucher term. Subsequent requests for extensions will follow CDA policies on voucher extensions found in Chapter 5. This includes granting additional extensions as needed as a reasonable accommodation.

The family must submit a Request for Tenancy Approval and proposed lease within the 120-day period unless the CDA grants an extension.

Once the family or youth locate a unit, the CDA conducts all other processes relating to voucher issuance and administration per HCV program regulations and the CDA's policies (including but not limited to inspections, determination of rent-reasonableness, etc.). A FUPY may lease a unit prior to officially leaving foster care in order to ensure a smooth transition from foster care to independence, as long as all requirements of the FUP program and HCV program are met.

~~PART V: EMERGENCY HOUSING VOUCHERS (EHVs)~~

~~18-V.A. INTRODUCTION~~

~~On March 11, 2021, President Biden signed the American Rescue Plan Act of 2021 (ARP) (P.L. 117-2). Section 3202 of the ARP appropriated $5 billion for the creation, administration, and renewal of new incremental emergency housing vouchers (EHVs) and other eligible expenses related to COVID-19.~~

~~On May 5, 2021, HUD issued Notice PIH 2021-15, which described HUD's process for allocating~~

approximately 70,000 EHVs to eligible CDAs and set forth the operating requirements for CDAs who administer them. Based on criteria outlined in the notice, HUD notified eligible CDAs of the number of EHVs allocated to their agency, and CDAs were able to accept or decline the invitation to participate in the program.

CDAs may not project-base EHVs; EHVs are exclusively tenant-based assistance.

All applicable nondiscrimination and equal opportunity requirements apply to the EHV program, including requirements that the CDA grant reasonable accommodations to persons with disabilities, effectively communicate with persons with disabilities, and ensure meaningful access for persons with limited English proficiency (LEP).

This chapter describes HUD regulations and CDA policies for administering EHVs. The policies outlined in this chapter are organized into seven sections, as follows:

Part I: Funding

Part II: Partnering Agencies

Part III: Waiting List Management

Part IV: Family Eligibility

Part V: Housing Search and Leasing

Part VI: Use of Funds, Reporting, and Financial Records

Except as addressed by this chapter and as required under federal statute and HUD requirements, the general requirements of the HCV program apply to EHVs.

PART I:FUNDING

18-I.A. FUNDING OVERVIEW

The American Rescue Plan Act of 2021 (ARP) provides administrative fees and funding for the costs of administering emergency housing vouchers (EHVs) and other eligible expenses defined in Notice PIH 2021-15. These fees may only be used for EHV administration and other eligible expenses and must not be used for or applied to other CDA programs or vouchers. The CDA must maintain separate financial records from its regular HCV funding for all EHV funding.

Housing Assistance Payments (HAP) Funding

ARP funding obligated to the CDA as housing assistance payments (HAP) funding may only be used for eligible EHV HAP expenses (i.e., rental assistance payments). EHV HAP funding may not be used for EHV administrative expenses or for the eligible uses under the EHV services fee.

The initial funding term will expire December 31, 2022. HUD will provide renewal funding to the CDA for the EHVs on a calendar year (CY) basis commencing with CY 2023. The renewal funding allocation will be based on the CDA's actual EHV HAP costs in leasing, similar to the renewal process for the regular HCV program. EHV renewal funding is not part of the annual HCV renewal funding formula; EHVs are renewed separately from the regular HCV program. All renewal funding for the duration of the EHV program has been appropriated as part of the ARP funding.

Administrative Fee and Funding

The following four types of fees and funding are allocated as part of the EHV program:

- **Preliminary fees** support immediate start-up costs that the CDA will incur in implementing alternative requirements under EHV, such as outreach and coordination with partnering agencies:
  - $400 per EHV allocated to the CDA, once the consolidated annual contributions contract (CACC) is amended.
  - This fee may be used for any eligible administrative expenses related to EHVs.
  - The fee may also be used to pay for any eligible activities under EHV service fees (TPS-I.B).
- **Placement fees/expedited issuance reporting fees** will support initial lease-up costs and the added cost and effort required to expedite leasing of EHVs:
  - $100 for each EHV initially leased, if the CDA reports the voucher issuance date in Public Housing Information Center- Next Generation (PIC- NG) system within 14 days of voucher issuance or the date the system becomes available for reporting.
  - Placement fees:
    - $500 for each EHV family placed under a HAP contract effective within four months of the effective date of the ACC funding increment; or
    - $250 for each EHV family placed under a HAP contract effective after four months but less than six months after the effective date of the ACC funding increment.
    - HUD will determine placement fees in the event of multiple EHV allocations and funding increment effective dates.
  - Placement/expedited issuance fees only apply to the initial leasing of the voucher; they are not paid for family moves or to turnover vouchers.
- **Ongoing administrative fees,** which are calculated in the same way as the standard HCV program:
  - CDAs are allocated administrative fees using the full column A administrative fee amount for each EHV under contract as of the first day of each month.
  - Ongoing EHV administrative fees may be subject to proration in future years, based on available EHV funding.
- **Services fees,** which are a one-time fee to support CDAs' efforts to implement and operate an effective EHV services program in its jurisdiction (TPS-I.B):
  - The fee is allocated once the CDA's CACC is amended to reflect EHV funding.
  - The amount allocated is $3,500 for each EHV allocated.

18-I.B. SERVICE FEES

Services fee funding must be initially used for defined eligible uses and not for other administrative expenses of operating the EHV program. Service fees fall into four categories:

- Housing search assistance.
- Security deposit/utility deposit/rental application/holding fee uses.
- Owner-related uses.

- Other eligible uses such as moving expenses or tenant-readiness services.

The CDA must establish the eligible uses and the parameters and requirements for service fees in the CDA's administrative plan.

CDA Policy

The eligible uses for service fees include:

Housing search assistance, which may include activities such as, but not limited to, helping a family identify and visit potentially available units during their housing search, helping to find a unit that meets the household's disability-related needs, providing transportation and directions, assisting with the completion of rental applications and CDA forms, and helping to expedite the EHV leasing process for the family.

Application fees/non-refundable administrative or processing fees/refundable application deposit assistance. The CDA may choose to assist the family with some or all of these expenses.

Holding fees are fees an owner requests that are rolled into the security deposit after an application is accepted but before a lease is signed. The CDA may cover part or all of the holding fee for units where the fee is required by the owner after a resident's application has been accepted but before the lease signing. The CDA and owner must agree how the holding fee gets rolled into the deposit, and under what conditions the fee will be returned. In general, owners need to accept responsibility for making needed repairs to a unit required by the initial housing quality standards (HQS) inspections and can only keep the holding fee if the client is at fault for not entering into a lease.

Security deposit assistance. The amount of the security deposit assistance may not exceed the lesser of two months' rent to owner, the maximum security deposit allowed under applicable state and/or local law, or the actual security deposit required by the owner. The CDA may pay the security deposit assistance directly to the owner or may pay the assistance to the family. If paid to the family, the CDA will require documentation that the family paid the security deposit.

Owner recruitment and outreach for EHVs. The CDA may use the service fee funding to conduct owner recruitment and outreach specifically for EHVs. In addition to traditional owner recruitment and outreach, activities may include conducting pre-inspections or otherwise expediting the inspection process, providing enhanced customer service, and offering owner incentive and/or retention payments.

Owner incentive and/or retention payments. The CDA may make incentive or retention payments to owners that agree to initially lease their unit to an EHV family and/or renew the lease of an EHV family.

Payments will be made as a single payment at the beginning of the assisted lease term (or lease renewal if a retention payment). Owner incentive and retentions payments are not housing assistance payments, are not part of the rent to owner, and are not taken into consideration when determining whether the rent for the unit is reasonable.

Moving expenses (including move-in fees, household necessities and deposits). The CDA may provide assistance for some or all of the family's reasonable moving expenses when they initially lease a unit with the EHV. The CDA will not provide moving expenses assistance for subsequent moves unless the family is required to move for reasons other

than something the family did or failed to do (e.g., the CDA is terminating the HAP contract because the owner did not fulfill the owner responsibilities under the HAP contract or the owner is refusing to offer the family the opportunity to enter a new lease after the initial lease term, as opposed to the family choosing to terminate the tenancy in order to move to another unit), or a family has to move due to domestic violence, dating violence, sexual assault, or stalking.

Tenant-readiness services. The CDA may use fees to help create a customized plan to address or mitigate barriers that individual families may face in renting a unit with an EHV, such as negative credit, lack of credit, negative rental, or utility history, or to connect the family to other community resources (including COVID-related resources) that can assist with rental arrears.

Any services fee assistance that is returned to the CDA after its initial or subsequent use may only be applied to the eligible services fee uses defined in Notice PIH 2021-15 (or subsequent notice) or other EHV administrative costs. Any amounts not expended for these eligible uses when the CDA's EHV program ends must be remitted to HUD.

PART II: PARTNERING AGENCIES

18-II.A. CONTINUUM OF CARE (CoC)

CDAs that accept an allocation of EHVs are required to enter into a Memorandum of Understanding (MOU) with the Continuum of Care (CoC) to establish a partnership for the administration of EHVs.

CDA Policy

As required, the CDA's MOU with the local CoC, is Suburban Metro Area Continuum (SMAC).

18-II.B. OTHER PARTNERING ORGANIZATIONS

The CDA may, but is not required to, partner with other organizations trusted by persons experiencing homelessness, such as victim services providers (VSPs) and other community partners. If the CDA chooses to partner with such agencies, the CDA must either enter into an MOU with the partnering agency or the partnering agency may be added to the MOU between the CDA and CoC.

CDA Policy

The CDA is also partnering with Dakota County Social Services.

18-II.C. REFERRALS

CoC and Partnering Agency Referrals

The primary responsibility of the CoC under the MOU with the CDA is to make direct referrals of qualifying individuals and families to the CDA. The CDA must generally refer a family that is seeking EHV assistance directly from the CDA to the CoC or other referring agency for initial intake, assessment, and possible referral for EHV assistance. Partner CoCs are responsible for determining whether the family qualifies under one of the four eligibility categories for EHVs. The CoC or other direct referral partner must provide supporting documentation to the CDA of the referring agency's verification that the family meets one of the four eligible categories for EHV assistance.

CDA Policy

SMAC must establish and implement a system to identify EHV-eligible individuals and families within the agency's caseload and make referrals to the CDA. SMAC must certify that the EHV applicants they refer to the CDA meet at least one of the four EHV eligibility criteria. The CDA will maintain a copy of the referral or certification from SMAC in the participant's file along with other eligibility paperwork. Homeless service providers may,

but are not required to, use the certification form found in Exhibit TPS-1 of this chapter. Victim services providers may, but are not required to, use the certification form found in Exhibit TPS-2 of this chapter when identifying eligible families who qualify as victims of human trafficking.

As part of the MOU, the CDA and SMAC will identify staff positions to serve as lead EHV liaisons. These positions will be responsible for transmission and acceptance of referrals. SMAC must commit sufficient staff and resources to ensure eligible individuals and families are identified and determined eligible in a timely manner.

The CDA liaison responsible for acceptance of referrals will contact SMAC via email indicating the number of vouchers available and requesting an appropriate number of referrals. No more than five business days from the date SMAC receives this notification, SMAC will provide the CDA with a list of eligible referrals including the name, address, and contact phone number for each adult individual who is being referred; a completed release form for each adult family member; and a written certification for each referral indicating they are EHV-eligible.

Offers of Assistance with CoC Referral

The CDA may make an EHV available without a referral from SMAC in order to facilitate an emergency transfer under VAWA in accordance with the CDA's Emergency Transfer Plan (ETP) in Chapter 16.

The CDA must also take direct referrals from outside SMAC if:

- SMAC does not have enough eligible families to refer to the CDA; or
- SMAC does not identify families that may be eligible for EHV assistance because they are fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking or human trafficking.

If at any time the CDA is not receiving enough referrals or is not receiving referrals in a timely manner from SMAC (or the CDA and SMAC cannot identify any such alternative referral partner agencies), HUD may permit the CDA on a temporary or permanent basis to take EHV applications directly from applicants and admit eligible families to the EHV program in lieu of or in addition to direct referrals in those circumstances.

PART III: WAITING LIST MANAGEMENT

18-III. A. HCV WAITING LIST

The regulation that requires the CDA to admit applicants as waiting list admissions or special admissions in accordance with admission policies in Chapter 4 does not apply to CDAs operating the EHV program. Direct referrals are not added to the CDA's HCV waiting list.

The CDA must inform families on the HCV waiting list of the availability of EHVs by, at a

minimum, either by posting the information to their website or providing public notice in their respective communities in accordance with the requirements listed in Notice PIH 2021-15.

CDA Policy

The CDA will post information about the EHV program for families on the CDA's HCV waiting list on their website. The notice will:

Describe the eligible populations to which EHVs are limited.

Clearly state that the availability of these EHVs is managed through a direct referral process.

Advise the family to contact SMAC if the family believes they may be eligible for EHV assistance.

The CDA will ensure effective communication with persons with disabilities, including those with vision, hearing, and other communication-related disabilities in accordance with Chapter 2. The CDA will also take reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP) in accordance with Chapter 2.

18-III.B. EHV WAITING LIST

The HCV regulations requiring the CDA to operate a single waiting list for admission to the HCV program do not apply to CDAs operating the EHV program. Instead, when the number of applicants referred by the CoC or partnering agency exceeds the EHVs available, the CDA must maintain a separate waiting list for EHV referrals, both at initial leasing and for any turnover vouchers that may be issued prior to September 30, 2023.

Further, the EHV waiting list is not subject to CDA policies in Chapter 4 regarding opening and closing the HCV waiting list. The CDA will work directly with its CoC and other referral agency partners to manage the number of referrals and the size of the EHV waiting list.

18-III.C. PREFERENCES

HCV Waiting List Preferences

If local preferences are established by the CDA for HCV, they do not apply to EHVs. However, if the CDA has a homeless preference or a VAWA preference for the HCV waiting list, the CDA must adopt additional policies related to EHVs in accordance with Notice PIH 2021-15.

CDA Policy

The CDA does not offer either a homeless or a VAWA preference for the HCV waiting list.

EHV Waiting List Preferences

With the exception of a residency preference, the CDA may choose, in coordination with the CoC and other referral partners, to establish separate local preferences for EHVs. The CDA may, however, choose to not establish any local preferences for the EHV waiting list.

CDA Policy

No local preferences have been established for the EHV waiting list.

PART IV: FAMILY ELIGIBLTY

18-IV.A. OVERVIEW

The CoC or referring agency determines whether the individual or family meets any one of the four eligibility criteria described in Notice PIH 2021-15 and then refers the family to the CDA. The CDA determines that the family meets other eligibility criteria for the HCV program, as modified for the EHV program and outlined below.

18-IV.B. REFERRING AGENCY DETERMINATION OF ELIGIBLITY

In order to be eligible for an EHV, an individual or family must meet one of four eligibility criteria:

- Homeless as defined in 24 CFR 578.3;
- At risk of homelessness as defined in 24 CFR 578.3;
- Fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking (as defined in Notice PIH 2021-15), or human trafficking (as defined in the 22 U.S.C. Section 7102); or
- Recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability as determined by the CoC or its designee in accordance with the definition in Notice PIH 2021-15.

As applicable, the CoC or referring agency must provide documentation to the CDA of the referring agency's verification that the family meets one of the four eligible categories for EHV assistance. The CDA must retain this documentation as part of the family's file.

18-IV.C. CDA SCREENING

Overview

HUD waived 24 CFR 982.552 and 982.553 in part for the EHV applicants and established alternative requirement for mandatory and permissive prohibitions of admissions. Except where applicable, CDA policies regarding denials in Chapter 3 of this policy do not apply to screening individuals and families for eligibility for an EHV. Instead, the EHV alternative requirement listed in this section will apply to all EHV applicants.

The mandatory and permissive prohibitions listed in Notice PIH 2021-15 and in this chapter, however, apply only when screening the individual or family for eligibility for an EHV. When adding a family member after the family has been placed under a HAP contract with EHV assistance, the regulations at 24 CFR 982.551(h)(2) apply. Other than the birth, adoption, or court-awarded custody of a child, the CDA must approve additional family members and may apply its regular HCV screening criteria in Chapter 3 in doing so.

Mandatory Denials

Under alternative requirements for the EHV program, mandatory denials for EHV applicants include:

- 24 CFR 982.553(a)(1)(ii)(C), which prohibits admission if any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.

- 24 CFR 982.553(a)(2)(i), which prohibits admission to the program if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program.

The CDA must deny admission to the program if any member of the family fails to sign and submit consent forms for obtaining information as required by 24 CFR 982.552(b)(3) but should notify the family of the limited EHV grounds for denial of admission first.

CDA Policy

While the CDA will deny admission to the program if any adult member (or head of household or spouse, regardless of age) fails to sign and submit consent forms, the CDA will first notify the family of the limited EHV grounds for denial of admission as part of the notice of denial that will be mailed to the family.

Permissive Denial

Notice PIH 2021-15 lists permissive prohibitions for which the CDA may, but is not required to, deny admission to EHV families. The notice also lists prohibitions that, while allowable under the HCV program, may not be used to deny assistance for EHV families.

If the CDA intends to establish permissive prohibition policies for EHV applicants, the CDA must first consult with its CoC partner to understand the impact that the proposed prohibitions may have on referrals and must take the CoC's recommendations into consideration.

CDA Policy

The CDA will apply permissive prohibition to the screening of EHV applicants. Determinations using permissive prohibitions will be made based on an individualized assessment of relevant mitigating information in accordance with policies in Section 3-III.E.

The CDA will establish the following permissive prohibitions:

If the CDA determines that any household member is currently engaged in, or has engaged in within the previous 12 months:

Violent criminal activity

Other criminal activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity.

If any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program within the previous 12 months.

If the family engaged in or threatened abusive or violent behavior toward CDA personnel within the previous 12 months.

The CDA will also deny assistance to household members already receiving assistance from another program in accordance with Section 9.h. of Notice PIH 2021-15.

Prohibitions based on criminal activity for the eligible EHV populations regarding drug possession will be considered apart from criminal activity against persons (i.e., violent criminal activity).

In compliance with PIH 2021-15, the CDA will not deny an EHV applicant admission

regardless of whether:

Any member of the family has been evicted from federally assisted housing in the last five years;

A CDA has ever terminated assistance under the program for any member of the family;

The family currently owes rent or other amounts to the CDA or to another CDA in connection with Section 8 or public housing assistance under the 1937 Act;

The family has not reimbursed any CDA for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease;

The family breached an agreement with the CDA to pay amounts owed, or amounts paid to an owner by a CDA;

The family would otherwise be prohibited admission under alcohol abuse standards established by the CDA in accordance with 24 CFR 982.553(a)(3);

The CDA determines that any household member is currently engaged in or has engaged in during a reasonable time before the admission, drug-related criminal activity.

18-IV.D. INCOME VERIFICATION AT ADMISSION

Self-Certification at Admission

The requirement to obtain third-party verification of income in accordance with Notice PIH 2018-18 does not apply to the EHV program applicants at admission, and alternatively, CDAs may consider self-certification the highest form of income verification at admission. As such, CDA policies related to the verification of income in Section 7-I.B. do not apply to EHV families at admission. Instead, applicants must submit an affidavit attesting to their reported income, assets, expenses, and other factors that would affect an income eligibility determination.

Additionally, applicants may provide third-party documentation that represents the applicant's income within the 60-day period prior to admission or voucher issuance but is not dated within 60 days of the CDA's request.

CDA Policy

Any documents used for verification must be the original (not photocopied) and dated within the 60-day period prior to admission. The documents must not be damaged, altered, or in any way illegible.

Printouts from webpages are considered original documents.

Any family self-certifications must be made in a format acceptable to the CDA and must be signed by the family member whose information or status is being verified.

The CDA will incorporate additional procedures to remind families of the obligation to provide true and complete information in accordance with Chapter 14. The CDA will address any material discrepancies (i.e., unreported income or a substantial difference in reported income) that may arise later. The CDA may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the

excess subsidy, the CDA will terminate the family's assistance in accordance with the policies in Chapter 12.

Recently Conducted Income Determinations

CDAs may accept income calculations and verifications from third-party providers or from an examination that the CDA conducted on behalf of the family for another subsidized housing program in lieu of conducting an initial examination of income as long as:

- The income was calculated in accordance with rules outlined at 24 CFR Part 5 and within the last six months; and
- The family certifies there has been no change in income or family composition in the interim.

CDA Policy

The CDA will accept income calculations and verifications from third-party providers provided they meet the criteria outlined above.

The family certification must be made in a format acceptable to the CDA and must be signed by all adult family members whose information or status is being verified.

At the time of the family's annual reexamination the CDA must conduct the annual reexamination of income as outlined at 24 CFR 982.516 and CDA policies in Chapter 11.

EIV Income Validation

Once HUD makes the EIV data available to CDAs under this waiver and alternative requirement, the CDA must:

- Review the EIV Income and Income Validation Tool (IVT) reports to confirm and validate family-reported income within 90 days of the PIC submission date;
- Print and maintain copies of the EIV Income and IVT Reports in the tenant file; and
- Resolve any income discrepancy with the family within 60 days of the EIV Income or IVT Report dates.

Prior to admission, CDAs must continue to use HUD's EIV system to search for all household members using the Existing Tenant Search in accordance with CDA policies in Chapter 3.

If a CDA later determines that an ineligible family received assistance, the CDA must take steps to terminate that family from the program in accordance with Chapter 12.

18-IV.E. SOCIAL SECURITY NUMBER AND CITIZENSHIP STATUS VERIFICATION

For the EHV program, the CDA is not required to obtain and verify SSN documentation and documentation evidencing eligible noncitizen status before admitting the family to the EHV program. Instead, CDAs may adopt policies to admit EHV applicants who are unable to provide the required SSN or citizenship documentation during the initial eligibility determination. As an alternative requirement, such individuals must provide the required documentation within 180 days of admission to be eligible for continued assistance, pending verification, unless the CDA provides an extension based on evidence from the family or confirmation from the CoC or other partnering agency that the family has made a good-faith effort to obtain the documentation.

If a CDA determines that an ineligible family received assistance, the CDA must take steps to terminate that family from the program.

CDA Policy

The CDA will admit EHV applicants who are unable to provide the required SSN or citizenship documentation during the initial eligibility determination. These individuals must provide the required documentation in accordance with policies in Chapter 7 within 180 days of admission. The CDA may provide an additional 60-day extension based on evidence from the family or confirmation from SMAC that the family has made a good-faith effort to obtain the documentation.

If the CDA determines that an ineligible family received assistance, the CDA will take steps to terminate that family from the program in accordance with policies in Chapter 12.

11B-IV.F. AGE AND DISABILITY VERIFICATION

CDAs may accept self-certification of date of birth and disability status if a higher level of verification is not immediately available. If self-certification is used, the CDA must obtain a higher level of verification within 90 days of admission or verify the information in EIV.

If a CDA determines that an ineligible family received assistance, the CDA must take steps to terminate that family from the program.

CDA Policy

The CDA will accept self-certification of date of birth and disability status if a higher form of verification is not immediately available. The certification must be made in a format acceptable to the CDA and must be signed by the family member whose information or status is being verified. If self-certification is accepted, within 90 days of admission, the CDA will verify the information in EIV or through other third-party verification if the information is not available in EIV. The CDA will note the family's file that self-certification was used as initial verification and include an EIV printout or other third-party verification confirming the applicant's date of birth and/or disability status.

If the CDA determines that an ineligible family received assistance, the CDA will take steps to terminate that family from the program in accordance with policies in Chapter 12.

18S-IV.G. INCOME TARGETING

The CDA must determine income eligibility for EHV families in accordance with 24 CFR 982.201 and CDA policy in Chapter 3; however, income targeting requirements do not apply for EHV families. The CDA may still choose to include the admission of extremely low-income EHV families in its income targeting numbers for the fiscal year in which these families are admitted.

CDA Policy

The CDA will not include the admission of extremely low-income EHV families in its income targeting numbers for the fiscal year in which these families are admitted.

PART V: HOUSING SEARCH AND LEASING

18-V.A. INITIAL VOUCHER TERM

Unlike the standard HCV program, which requires an initial voucher term of at least 60 days, EHV vouchers must have an initial search term of at least 120 days. CDA policies on extensions as outlined in Section 5-II.E. will apply.

CDA Policy

All EHVs will have an initial term of 120 calendar days.

The family must submit a Request for Tenancy Approval and proposed lease within the 120-day period unless the CDA grants an extension.

18-V.B. HOUSING SEARCH ASSISTANCE

The CDA must ensure housing search assistance is made available to EHV families during their initial housing search. The housing search assistance may be provided directly by the CDA or through the CoC or another partnering agency or entity.

At a minimum, housing search assistance must:

- Help individual families identify potentially available units during their housing search, including physically accessible units with features for family members with disabilities, as well as units in low poverty neighborhoods;
- Provide transportation assistance and directions to potential units;
- Conduct owner outreach;
- Assist with the completion of rental applications and CDA forms; and
- Help expedite the EHV leasing process for the family

CDA Policy

As identified in the MOU between the CDA and SMAC, the following housing search assistance will be provided to each EHV family:

The CDA, in partnership with Dakota County Social Services, will:

Conduct owner outreach in accordance with policies in Chapter 13.

Provide directions to potential units as part of the EHV briefing packet.

Expedite the EHV leasing process for the family to the extent practicable and in accordance with policies in this chapter.

At least every 30 days, conduct proactive check-ins via email and telephone with families who are searching with an EHV and remind them of their voucher expiration date.

Assign a dedicated landlord liaison for EHV voucher families.

Help families identify potentially available units during their housing search, including physically accessible units with features for family members with disabilities, as well as units in low-poverty neighborhoods.

Provide transportation assistance to potential units.

Assist the family with the completion of rental applications and CDA forms.

SMAC will:

Identify eligible households.

Refer eligible households to the CDA within 5 business days.

18-V.C. HQS PRE-INSPECTIONS

To expedite the leasing process, CDAs may pre-inspect available units that EHV families may be

interested in leasing in order to maintain a pool of eligible units.

CDA Policy

To expedite the leasing process, the CDA may pre-inspect available units that EHV families may be interested in leasing to maintain a pool of eligible units. If an EHV family selects a unit that passed a HQS pre-inspection (without intervening occupancy) within 45 days of the date of the Request for Tenancy Approval, the unit may be approved if it meets all other conditions under 24 CFR 982.305.

The family will be free to select his or her unit.

When a pre-inspected unit is not selected, the CDA will make every effort to fast-track the inspection process, including adjusting the normal inspection schedule for any required reinspection's.

18-V.D. INITIAL LEASE TERM

Unlike in the standard HCV program, EHV voucher holders may enter into an initial lease that is for less than 12 months, regardless of the CDA policy in Section 9-I.E., Term of Assisted Tenancy.

18-V.E. PORTABILITY

The normal HCV portability procedures and requirements outlined in Chapter 10 generally apply to EHVs. Exceptions are addressed below.

Nonresident Applicants

Under EHV, applicant families may move under portability even if the family did not have legal residency in the jurisdiction of the initial CDA when they applied, regardless of CDA policy in Section 10-II.B.

Billing and Absorption

A receiving CDA cannot refuse to assist an incoming EHV family, regardless of whether the CDA administers EHVs under its own ACC.

- If the EHV family moves under portability to another CDA that administers EHVs under its own ACC:
  - The receiving CDA may only absorb the incoming EHV family with an EHV (assuming it has an EHV voucher available to do so).
  - If the CDA does not have an EHV available to absorb the family, it must bill the initial CDA. The receiving CDA must allow the family to lease the unit with EHV assistance and may not absorb the family with a regular HCV when the family leases the unit.
  - Regardless of whether the receiving CDA absorbs or bills the initial CDA for the family's EHV assistance, the EHV administration of the voucher is in accordance with the receiving CDA's EHV policies.
- If the EHV family moves under portability to another CDA that does not administer EHV under its own ACC, the receiving CDA may absorb the family into its regular HCV program or may bill the initial CDA.

Family Briefing

In addition to the applicable family briefing requirements at 24 CFR 982.301(a)(2) as to how portability works and how portability may affect the family's assistance, the initial CDA must

inform the family how portability may impact the special EHV services and assistance that may be available to the family.

The initial CDA is required to help facilitate the family's portability move to the receiving CDA and inform the family of this requirement in writing, taking reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP).

CDA Policy

In addition to following CDA policy on briefings in Chapter 5, as part of the briefing packet for EHV families, the CDA will include a written notice that the CDA will assist the family with moves under portability.

For limited English proficient (LEP) applicants, the CDA will provide interpretation services in accordance with the CDA's LEP plan (See Chapter 2).

Coordination of Services

If the portability move is in connection with the EHV family's initial lease-up, the receiving CDA and the initial CDA must consult and coordinate on the EHV services and assistance that will be made available to the family.

CDA Policy

For EHV families who are exercising portability, when the CDA contacts the receiving CDA in accordance with Section 10-II.B. Preapproval Contact with Receiving CDA, the CDA will consult and coordinate with the receiving CDA to ensure there is no duplication of EHV services and assistance, and ensure the receiving CDA is aware of the maximum amount of services fee funding that the initial CDA may provide to the receiving CDA on behalf of the family.

Services Fee

Standard portability billing arrangements apply for HAP and ongoing administrative fees for EHV families.

For service fees funding, the amount of the service fee provided by the initial CDA may not exceed the lesser of the actual cost of the services and assistance provided to the family by the receiving CDA or $1,750, unless the initial CDA and receiving CDA mutually agree to change the $1,750 cap. Service fees are paid as follows:

- If the receiving CDA, in consultation and coordination with the initial CDA, will provide eligible services or assistance to the incoming EHV family, the receiving CDA may be compensated for those costs by the initial CDA, regardless of whether the receiving CDA bills or absorbs.
- If the receiving CDA administers EHVs, the receiving CDA may use its own services fee and may be reimbursed by the initial CDA, or the initial CDA may provide the services funding upfront to the receiving CDA for those fees and assistance.
- If the receiving CDA does not administer EHVs, the initial CDA must provide the services funding upfront to the receiving CDA. Any amounts provided to the receiving CDA that are not used for services or assistance on behalf of the EHV family must promptly be returned by the receiving CDA to the initial CDA.

Placement Fee/Issuance Reporting Fee

If the portability lease-up qualifies for the placement fee/issuance reporting fee, the receiving CDA receives the full amount of the placement component of the placement fee/issuing reporting fee. The receiving CDA is eligible for the placement fee regardless of whether the receiving CDA bills the initial CDA or absorbs the family into its own program at initial lease-up. The initial CDA qualifies for the issuance reporting component of the placement fee/issuance reporting fee, as applicable.

18-V.F. PAYMENT STANDARDS

Payment Standard Schedule

For the EHV program, HUD has waived the regulation requiring a single payment standard for each unit size. Instead, the CDA may, but is not required to, establish separate higher payment standards for EHVs. Lower EHV payment standards are not permitted. If the CDA is increasing the regular HCV payment standard, the CDA must also increase the EHV payment standard if it would be otherwise lower than the new regular HCV payment standard. The separate EHV payment standard must comply with all other HCV requirements with the exception of the alternative requirements discussed below.

Further, if the CDA chooses to establish higher payments standards for EHVs, HUD has provided other regulatory waivers:

- Defining the "basic range" for payment standards as between 90 and 120 percent of the published Fair Market Rent (FMR) for the unit size (rather than 90 to 110 percent).
- Allowing a CDA that is not in a designated Small Area FMR (SAFMR) area or has not opted to voluntarily implement SAFMRs to establish exception payment standards for a ZIP code area above the basic range for the metropolitan FMR based on the HUD published SAFMRs. The CDA may establish an exception payment standard up to 120 percent (as opposed to 110 percent) of the HUD published Small Area FMR for that ZIP code area. The exception payment standard must apply to the entire ZIP code area.

  The CDA must notify HUD if it establishes an EHV exception payment standard based on the SAFMR.

  CDA Policy

  The CDA will not establish a higher payment standard amount for EHVs. The CDA will use the same payment standards for HCV and EHV.

Rent Reasonableness

All rent reasonableness requirements apply to EHV units, regardless of whether the CDA has established an alternative or exception EHV payment standard.

Increases in Payment Standards

The requirement that the CDA apply increased payment standards at the family's first regular recertification on or after the effective date of the increase does not apply to EHV. The CDA may, but is not required to, establish an alternative policy on when to apply the increased payment standard, provided the increased payment standard is used to calculate the HAP no later than the effective date of the family's first regular reexamination following the change.

CDA Policy

The CDA will not establish an alternative policy for increases in the payment standard.

CDA policy in Section 11-III.B. governing increases in payment standards will apply to EHV.

18-V.G. TERMINATION OF VOUCHERS

After September 30, 2023, a CDA may not reissue EHVs when assistance for an EHV-assisted family ends. This means that when an EHV participant (a family that is receiving rental assistance under a HAP contract) leaves the program for any reason, the CDA may not reissue that EHV to another family unless it does so no later than September 30, 2023.

If an applicant family that was issued the EHV is unsuccessful in finding a unit and the EHV expires after September 30, 2023, the EHV may not be reissued to another family.

All EHVs under lease on or after October 1, 2023, may not under any circumstances be reissued to another family when the participant leaves the program for any reason.

An EHV that has never been issued to a family may be initially issued and leased after September 30, 2023, since this prohibition only applies to EHVs that are being reissued upon turnover after assistance to a family has ended. However, HUD may direct CDAs administering EHVs to cease leasing any unleased EHVs if such action is determined necessary by HUD to ensure there will be sufficient funding available to continue to cover the HAP needs of currently assisted EHV families.

PART VI: USE OF FUNDS, REPORTING, AND FINANCIAL RECORDS

EHV funds allocated to the CDA for HAP (both funding for the initial allocation and HAP renewal funding) may only be used for eligible EHV HAP purposes. EHV HAP funding obligated to the CDA may not be used for EHV administrative expenses or the other EHV eligible expenses under this notice. Likewise, EHV administrative fees and funding obligated to the CDA are to be used for those purposes and must not be used for HAP.

The appropriated funds for EHVs are separate from the regular HCV program and may not be used for the regular HCV program but may only be expended for EHV eligible purposes. EHV HAP funds may not roll into the regular HCV restricted net position (RNP) and must be tracked and accounted for separately as EHV RNP. EHV administrative fees and funding for other eligible expenses permitted by Notice PIH 2021-15 may only be used in support of the EHVs and cannot be used for regular HCVs. EHV funding may not be used for the repayment of debts, or any amounts owed to HUD by HUD program participants including, but not limited to, those resulting from Office of Inspector General (OIG), Quality Assurance Division (QAD), or other monitoring review findings.

The CDA must comply with EHV reporting requirements in the Voucher Management System (VMS) and Financial Data Schedule (FDS) as outlined in Notice PIH 2021-15.

The CDA must maintain complete and accurate accounts and other records for the program and provide HUD and the Comptroller General of the United States full and free access to all accounts and records that are pertinent the administration of the EHVs in accordance with the HCV program requirements at 24 CFR 982.158.

Exhibit 18-1: HOMELESS PROVIDER'S CERTIFICATION

Attachment 3 of Notice PIH 2021-15 Example of a Homeless Provider's Certification

Emergency Housing Voucher (EHV)

HOMELESS CERTIFICATION

EHV Applicant Name: _____

☐ Household without dependent children (complete one form for each adult in the household)

☐ Household with dependent children (complete one form for household)

Number of persons in the household: _____

This is to certify that the above named individual or household meets the following criteria based on the check mark, other indicated information, and signature indicating their current living situation

Check only one box and complete only that section

Living Situation: place not meant for human habitation (e.g., cars, parks, abandoned buildings, streets/sidewalks)

☐ The person(s) named above is/are currently living in (or, if currently in hospital or other institution, was living in immediately prior to hospital/institution admission) a public or private place not designed for, or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus station, airport, or camp ground.

Description of current living situation:

_____

_____

_____

Homeless Street Outreach Program
Name: _____

This certifying agency must be recognized by the local Continuum of Care (CoC) as an agency that has a program designed to serve persons living on the street or other places not meant for human habitation. Examples may be street outreach workers, day shelters, soup kitchens, Health Care for the Homeless sites, etc.

Authorized Agency Representative Signature: _____
Date: _____

~~Living Situation: Emergency Shelter~~

☐ ~~The person(s) named above is/are currently living in (or, if currently in hospital or other institution, was living in immediately prior to hospital/institution admission) a supervised publicly or privately operated shelter as follows:~~

~~Emergency Shelter Program Name:~~

_____

~~This emergency shelter must appear on the CoC's Housing Inventory Chart submitted as part of the most recent CoC Homeless Assistance application to HUD or otherwise be recognized by the CoC as part of the CoC inventory (e.g., newly established Emergency Shelter).~~

~~Authorized Agency Representative Signature: _____ Date: _____~~

~~Living Situation: Recently Homeless~~

☐ ~~The person(s) named above is/are currently receiving financial and supportive services for persons who are homeless. Loss of such assistance would result in a return to homelessness (ex. Households in Rapid Rehousing Programs, residents of Permanent Supportive Housing Programs participating in Moving On, etc.)~~
~~Authorized Agency Representative Signature:~~

_____

~~This referring agency must appear on the CoC's Housing Inventory Chart submitted as part of the most recent CoC Homeless Assistance application to HUD or otherwise be recognized by the CoC as part of the CoC inventory.~~

~~Immediately prior to entering the household's current living situation, the person(s) named above was/were residing in:~~

☐ ~~emergency shelter~~ ~~OR~~ ☐ ~~a place unfit for human habitation~~

~~Authorized Agency Representative Signature: _____~~
~~Date: _____~~

Exhibit 18-2: EXAMPLE OF A VICTIM SERVICES PROVIDER'S CERTIFICATION

Attachment 4 of Notice PIH 2021-15: Example of a Victim Services Provider's Certification

Emergency Housing Voucher (EHV)

SAMPLE HUMAN TRAFFICKING CERTIFICATION

Purpose of Form:

The Victims of Trafficking and Violence Protection Act of 2000 provides assistance to victims of trafficking making housing, educational health care, job training and other Federally-funded social service programs available to assist victims in rebuilding their lives.

Use of This Optional Form:

In response to this request, the service provider may complete this form and submit it to the Public Housing Agency (CDA) to certify eligibility for EHV assistance.

Confidentiality: All information provided to the service provider concerning the incident(s) of human trafficking shall be kept confidential and such details shall not be entered into any shared database. Employees of the CDA will not have access to these details, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

TO BE COMPLETED ON BEHALF OF HUMAN TRAFFICKING SURVIVOR

EHV Applicant Name: _____

This is to certify that the above named individual or household meets the definition for persons who are fleeing or attempting to flee human trafficking under section 107(b) of the Trafficking Victims Protection Act of 2000.

Immediately prior to entering the household's current living situation, the person(s) named above was/were residing in:

_____

_____

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual(s) named above is/has been a victim of human trafficking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Authorized Agency Representative Signature: _____ **Date:** _____1

GLOSSARY

A. ACRONYMS USED IN THE HOUSING CHOICE VOUCHER (HCV) PROGRAM

ACC	Annual contributions contract
ADA	Americans with Disabilities Act of 1990
AHAP	Agreement to enter into a HAP Contract
AIDS	Acquired immune deficiency syndrome
BR	Bedroom
CDA	Community Development Agency
CDBG	Community Development Block Grant (Program)
CFR	Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as "the regulations")
CoC	Continuum of Care
CPD	Community Planning and Development (HUD Office of)
CPI	Consumer price index (published monthly by the Department of Labor as an inflation indicator)
EIV	Enterprise Income Verification
ELI	Extremely Low Income
EHV	Emergency Housing Voucher
EV	Enhanced Voucher
FDIC	Federal Deposit Insurance Corporation
FHA	Federal Housing Administration (HUD Office of Housing)
FHEO	Fair Housing and Equal Opportunity (HUD Office of)
FICA	Federal Insurance Contributions Act (established Social Security taxes)
FMR	Fair market rent
FR	Federal Register
FSS	Family Self-Sufficiency (Program)
FUP	Family Unificication Program
FY	Fiscal year
FYE	Fiscal year end
FYI	Foster Youth to Independence
GAO	Government Accountability Office

GR	Gross rent
HA	Housing Authority or housing agency
HAP	Housing assistance payment
HCV	Housing choice voucher
HEA	Higher Education Act
~~**HIP**~~	~~Housing Information Portal~~
HOME	Home Investment Partnership Program
HOPWA	Housing Opportunities for Persons with AIDS (Program)
HOTMA	Housing Opportunity through Modernization Act of 2016
HQS	Housing quality standards
HUD	Department of Housing and Urban Development
HUDCLIPS	HUD Client Information and Policy System
IMS/PIC	Inventory Management System/PIH Information Center
IPA	Independent public accountant
IRA	Individual retirement account
IRS	Internal Revenue Service
IVT	Income Validation Tool
~~**JTPA**~~	~~Job Training Partnership Act~~
LBP	Lead-based paint
LEP	Limited English proficiency
LIHTC	Low-Income Housing Tax Credit
MSA	Metropolitan statistical area (established by the U.S. Census Bureau)
MTW	Moving to Work
NED	Non-Elderly Disabled
NOFA	Notice of funding availability
NSPIRE	National Standards for the Physical Inspection of Real Estate
OGC	HUD's Office of General Counsel
OIG	HUD's Office of Inspector General
OMB	Office of Management and Budget
PBV	Project-based voucher
CDA	Public housing agency
PIH	(HUD Office of) Public and Indian Housing
PS	Payment standard

QC	Quality control
REAC	(HUD) Real Estate Assessment Center
RFP	Request for proposals
RFTA	Request for tenancy approval
RIGI	Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level)
SAFMR	Small Areas Fair Market Rent
SAVE	Systemic Alien Verification for Entitlements
SEMAP	Section 8 Management Assessment Program
SRO	Single room occupancy
SSA	Social Security Administration
SSI	Supplemental security income
SWICA	State wage information collection agency
TANF	Temporary assistance for needy families
TPV	Tenant protection vouchers
TR	Tenant rent
TTP	Total tenant payment
UA	Utility allowance
UFAS	Uniform Federal Accessibility Standards
UIV	Upfront income verification
URP	Utility reimbursement payment
VASH	Veterans Affairs Supportive Housing
VAWA	Violence Against Women Act
VCA	Voluntary Compliance Agreement
VMS	Voucher Management System

B. DEFINITIONS OF SUBSIDIZED HOUSING TERMS

~~***Affiliated individual.*** *With respect to an individual, a spouse, parent, brother, sister, or child of that individual, or an individual to whom that individual stands in loco parentis (in the place of a parent), or any individual, tenant, or lawful occupant living in the household of that individual.*~~

Affiliated person. The tenant's spouse, parent, sibling, or child; or any individual, tenant, or lawful occupant living in the tenant's household; or anyone for whom the tenant acts as parent/guardian of a victim of domestic violence, dating violence, sexual assault, or stalking.

~~***Income for eligibility.*** Annual income.~~

Unrestricted net asset (UNA) accounts. Accounts established by the CDA from excess administrative fee income. These reserves also referred to as *administrative fee reserves.* These reserves must be used for housing purposes. See 24 CFR 952.155.

Upfront income verification (UIV). UIV is the verification of income, before or during a family reexamination, through an independent source that systemically and uniformly maintains income information in computerized form for a large number of individuals.

~~***Utilities.*** Water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection, and sewage services. Telephone service is not included.~~

~~***Utility allowance.*** If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by the CDA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.~~

~~***Utility reimbursement.*** In the voucher program, the portion of the housing assistance payment which exceeds the amount of rent to owner.~~

~~***Utility hook-up charge.*** In a manufactured home space rental: Costs payable by a family for connecting the manufactured home to utilities such as water, gas, electrical and sewer lines.~~

~~***Very low-income family.*** A low-income family whose annual income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50 percent of the median income for the area based on its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the housing choice voucher program.~~

~~***Veteran.*** A person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released therefrom under conditions other than dishonorable.~~

Victim. Any victim of VAWA violence/abuse, regardless of actual or perceived sexual orientation, gender identity, sex, or marital status.

Dakota County CDA

Board of Commissioners

Request for Board Action

Meeting Date: October 27, 2026 Agenda #: 4B

DEPARTMENT: Property Management
FILE TYPE: Federal - Consent

TITLE
Approval Of Amendments To The Public Housing Admissions And Continued Occupancy Policy

PURPOSE/ACTION REQUESTED
Approve amendments to the Public Housing Admissions and Continued Occupancy Policy.

SUMMARY
The Dakota County Community Development Agency (CDA), as the administrator of the federal Public Housing program, is required to adopt and maintain an Admissions and Continued Occupancy Policy to delineate the mandatory and discretionary policies used to govern the program.

Periodically, the policy 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.

The Dakota County CDA is incorporating policies that have been updated by HUD in addition to changing the waiting list purging process whereas an applicant will be removed from the waiting list should they not respond within the timeframe allotted when updating the waiting list.

RECOMMENDATION
Staff recommends approval of the amendments to the Public Housing Admissions and Continued Occupancy Policy.

EXPLANATION OF FISCAL/FTE IMPACTS
None

☒ None ☐ Current budget ☐ Amendment Requested ☐ Other

RESOLUTION
WHEREAS, the Dakota County Community Development Agency (CDA), as an administrator of the public housing program, is required to adopt and maintain an Admissions and Continued Occupancy Policy to delineate the policies used to govern the programs; and

WHEREAS, the Dakota County CDA has made updates to the Public Housing Administrative Plan to update policies for the administration of the Public Housing program.

NOW, THEREFORE BE IT RESOLVED by the Dakota County Community Development Agency Board of Commissioners, That these amendments to the Public Housing Admissions and Continued Occupancy Policy is approved.

PREVIOUS BOARD ACTION
24-6847; 6/26/2024

ATTACHMENTS
Attachment A: Public Housing Administrative Plan

CONTACT
Department Head: Anna Judge, Director of Property Management
Author: Anna Judge

PUBLIC HOUSING ADMISSIONS AND CONTINUED OCCUPANCY POLICY (ACOP)

~~6/26~~10/27/2024

Dakota County CDA

Dakota County Community Development Agency

CDA

Approved by the Dakota County CDA Board of Commissioners: 6/26/2024

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GLOSSARY

Introduction

ABOUT THE ACOP

REFERENCES CITED IN THE ACOP

Authority for PHA policies is derived from many sources. Primary among these sources are regulations and guidance issued by HUD. State law also directs PHA policy. State law must be followed where such law exists and does not conflict with federal regulations. In the absence of legal requirements or HUD guidance, industry practice may lead to PHA policy. Finally, the public housing lease will affect PHA policy and therefore must be consistent with federal and state laws and regulations.

HUD

HUD provides the primary source of PHA policy through federal regulations, HUD Notices and handbooks. Compliance with federal regulations, current HUD Notices and HUD handbooks is mandatory.

HUD provides nonmandatory guidance to PHAs through HUD published guidebooks. Expired HUD Notices and handbooks also provide guidance for PHA policy. Following HUD guidance is optional, as long as PHA policies comply with federal law, federal regulations and mandatory policy, and such HUD guidance has not been rescinded.. ~~.~~ Because HUD has already determined that the guidance it provides is consistent with mandatory policies, PHA reliance on HUD guidance provides the PHA with a "safe harbor."

Material posted on the HUD website, HUD memos, HUD emails sent to executive directors, and responses to email inquiries directed to HUD can provide further clarification of HUD regulations and guidance. For example, FAQs on the HUD website can provide direction on the application of federal regulations to a specific pattern. ~~Content contained on the HUD website can provide further clarification of HUD policies. For example, FAQs on the HUD website can provide direction on the application of federal regulations to a specific pattern.~~

State Law

Where there is no mandatory federal guidance, PHAs must comply with state law, if it exists. Where state law is more restrictive than federal law, but does not conflict with it, the PHA should follow the state law. For example, federal regulations establish the baseline for housing discrimination, accessibility, lead safety, and program funding, among many other things, while state laws may dictate specific landlord-tenant rules or local building and safety codes. Local ordinance may also come in to play and impact things like zoning, rental rules, and public safety. It is important to note that while fair housing is governed by the federal Fair Housing Act and other federal anti-discrimination laws (administered and enforced by HUD), there are often stricter state and local laws in many areas. Landlords and PHAs must follow whichever law is more restrictive. Where there is no mandatory federal guidance, PHAs must comply with state law, if it exists. Where state law is more restrictive than federal law, but does not conflict with it, the PHA should follow the state law.

Industry Practice

Where no law or HUD authority exists on a particular subject, industry practice may support PHA policy. An industry practice is a way of doing things that is followed by most housing

authorities.

RESOURCES CITED IN THE ACOP

The ACOP cites several documents. Where a document or resource is cited frequently, it may be abbreviated. Where it is cited only once or twice, the ACOP may contain the entire name of the document or resource. Following is a key to abbreviations used for various sources that are frequently cited in the ACOP, and a list of references and document locations that are referenced in the ACOP or that may be helpful to you.

Public Housing Occupancy Guidebook

In June 2020 HUD began issuing a new version of the *Public Housing Occupancy Guidebook* chapter-by-chapter. Unlike the previous version of the guidebook in which chapters were numbered, the new version includes chapter names, but no numbers. As the new version of the guidebook has not yet been fully released, and since the previous version of the guidebook contains guidance not found in the new version, the policy cites both versions of the guidebook. Therefore, where the *Public Housing Occupancy Guidebook* is cited in the policy, the citation will make a distinction between the "old" and "new" versions of the guidebook. The "old" version of the guidebook will continue to be cited as *PH OCC GB* with a chapter/page reference (example: PH OCC GB, p. 5-4). If HUD has also released a new chapter on the same topic with information that either adds new information or updates existing information from the previous guidebook, the new guidebook will be cited as *New PH OCC GB* with a chapter title and page reference (example: New PH OCC GB, *Lease Requirements,* p. 11).

HUD issued Notice PIH 2023-27 to implement sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA). A revised version of the notice was issued April 16, 2026. The notice supersedes relevant portion of the guidebook, specifically the chapters on eligibility and occupancy, income determinations, and reexaminations. Where chapters have not been altered by the HOTMA implementation notice, the model policy continues to cite the Public Housing Occupancy Guidebook. ~~In June 2020 HUD began issuing a new version of the *Public Housing Occupancy Guidebook* chapter-by-chapter. Unlike the previous version of the guidebook in which chapters were numbered, the new version includes chapter names, but no numbers. As the new version of the guidebook has not yet been fully released, and since the previous version of the guidebook contains guidance not found in the new version, the policy cites both versions of the guidebook. Therefore, where the *Public Housing Occupancy Guidebook* is cited in the policy, the citation will make a distinction between the "old" and "new" versions of the guidebook. The "old" version of the guidebook will continue to be cited as *PH OCC GB* with a chapter/page reference (example: PH OCC GB, p. 5-4). If HUD has also released a new chapter on the same topic with information that either adds new information or updates existing information from the previous guidebook, the new guidebook will be cited as *New PH OCC GB* with a chapter title and page reference (example: New PH OCC GB, *Lease Requirements,* p. 11).~~

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Abbreviations

Throughout the ACOP, abbreviations are used to designate certain documents in citations. The following is a table of abbreviations of documents cited by the ACOP.

Abbreviation	Document
CFR	Code of Federal Regulations
HUD-50058 IB	Form HUD-50058 Instruction Booklet
PH OCC GB	Public Housing Occupancy Guidebook, June 2003
New PH OCC GB	Public Housing Occupancy Guidebook, Various dates of release
RHIIP FAQs	Rental Housing Integrity Improvement Program (RHIIP) Frequently Asked Questions
VG	Verification Guidance, March 2004 (attachment to PIH Notice 2004-1)

Resources and Where to Find Them

The HUD website is https://www.hud.gov/.

Guidebooks, handbooks, and other HUD resources may be found at the HUDClips website: https://www.hud.gov/program_offices/administration/hudclips

Following is a list of resources helpful to the PHA or referenced in the ACOP, and the online location of each.

Document and Location
Code of Federal Regulations (24 CFR) http://www.ecfr.gov
~~Enterprise Income Verification (EIV) System PHA Security Procedures~~ ~~https://www.hud.gov/sites/documents/EIVSECGUIDEPHA.PDF~~ Enterprise Income Verification (EIV) System https://www.hud.gov/helping-americans/public-indian-housing-eiv
~~Executive Order 11063~~ ~~https://www.archives.gov/federal-register/codification/executive-order/11063.html~~
Federal Register https://www.federalregister.gov/
HOTMA Final Rule 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&utm_source=federalregister.gov&utm_medium=email
HOTMA Implementation Notice, PIH 2023-27 ~~https://www.hud.gov/sites/dfiles/OCHCO/documents/2023-27pihn.pdf~~ https://www.hud.gov/sites/dfiles/PIH/documents/PIH%202023-27%20HOTMA.pdf
Joint Statement of the Department of Housing and Urban Development and the Department of Justice, issued May 17, 2004 https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf
~~Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007~~ ~~https://www.lep.gov/guidance/HUD_guidance_Jan07.pdf~~
~~Notice PIH 2010-26, Nondiscrimination and Accessibility Notice~~ ~~http://www.hud.gov/offices/pih/publications/notices/10/pih2010-26.pdf~~
Notice PIH 2017-12, Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System https://www.hud.gov/sites/documents/PIH2017-12EIVNOTICE.PDF
Public Housing Occupancy Guidebook, June 2003 https://www.hud.gov/sites/documents/DOC_10760.PDF

VAWA Resources
https://www.hud.gov/vawa

Chapter 1

OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION

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

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

There are three parts to this chapter:

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

Part II: The Public Housing Program. This part contains information about public housing operation, roles and responsibilities, and partnerships.

Part III: The Admissions and Continued Occupancy (ACOP). This part discusses the purpose and organization of the plan and its revision requirements.

PART I: THE CDA

1-I.A. OVERVIEW

This part describes the CDA's creation and authorization, the general structure of the organization, and the relationship between the CDA Board and staff.

1-I.B. ORGANIZATION AND STRUCTURE OF THE CDA

Public housing is funded by the federal government and administered by the **Dakota County CDA** for the jurisdiction of **Dakota County, Minnesota**.

CDAs are governed by a board of officials that are generally called "commissioners." Although some CDAs may use a different title for their officials, this document will hitherto refer to the "board of commissioners" or the "board" when discussing the board of governing officials.

Commissioners are appointed in accordance with state housing law and generally serve in the same capacity as the directors of a corporation. The board of commissioners establishes policies under which the CDA conducts business, and ensures that those policies are followed by CDA staff. The board is responsible for preserving and expanding the agency's resources and assuring the agency's continued viability and success.

Formal actions of the CDA are taken through written resolutions, adopted by the board and entered into the official records of the CDA.

The principal staff member of the CDA is the executive director (ED), who is selected and hired by the board. The ED oversees the day to day operations of the CDA and is directly responsible for carrying out the policies established by the commissioners. The ED's duties include hiring, training, and supervising the CDA's staff, as well as budgeting and financial planning for the agency. Additionally, the ED is charged with ensuring compliance with federal and state laws, and program mandates. In some CDAs, the ED is known by another title, such as chief executive officer or president.

1-I.C. CDA MISSION

The purpose of a mission statement is to communicate the purpose of the agency to people inside and outside of the agency. It provides the basis for strategy development, identification of critical success factors, resource allocation decisions, as well as ensuring client and stakeholder satisfaction.

The Dakota County CDA's mission is to improve the lives of Dakota County residents through affordable housing and community development.

1-I.D. THE CDA'S COMMITMENT TO ETHICS AND SERVICE

As a public service agency, the CDA is committed to providing excellent service to all public housing applicants, residents, and the public. In order to provide superior service, the CDA resolves to:

- Administer applicable federal and state laws and regulations to achieve high ratings in compliance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.
- Provide housing that is safe, habitable, functionally adequate, operable, and free of health and safety hazards—in compliance with the National Standards for the Physical Inspection of Real Estate: Inspection Standards (NSPIRE)—for very low- and low-income families. ~~Provide decent, safe, and sanitary housing in good repair – in compliance with program uniform physical condition standards – for very low- and low-income families~~.
- Achieve a healthy mix of incomes in its public housing developments by attracting and retaining higher income families and by working toward deconcentration of poverty goals.
- Encourage self-sufficiency of participant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational and other human services needs.
- Promote fair housing and the opportunity for very low- and low-income families of all races, ethnicities, national origins, religions, ethnic backgrounds, and with all types of disabilities, to participate in the public housing program and its services.
- Create positive public awareness and expand the level of family and community support in accomplishing the CDA's mission.
- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.
- Administer an efficient, high-performing agency through continuous improvement of the CDA's support systems and commitment to our employees and their development.

The CDA will make every effort to keep residents informed of program rules and regulations,and to advise participants of how the program rules affect them.

PART II: THE PUBLIC HOUSING PROGRAM

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

The intent of this section is to provide the public and staff an overview of the history and operation of public housing.

The United States Housing Act of 1937 (the "Act") is responsible for the birth of federal housing program initiatives, known as public housing. The Act was intended to provide financial assistance to states and cities for public works projects, slum clearance and the development of affordable housing for low-income residents. There have been many changes to the program since its inception in 1937.

The Housing Act of 1965 established the availability of federal assistance, administered through local public agencies, to provide rehabilitation grants for home repairs and rehabilitation. This act also created the federal Department of Housing and Urban Development (HUD).

The Housing Act of 1969 created an operating subsidy for the public housing program for the first time. Until that time, public housing was a self-sustaining program.

In 1998, the Quality Housing and Work Responsibility Act (QHWRA) – also known as the Public Housing Reform Act or Housing Act of 1998 – was signed into law. Its purpose was to provide more private sector management guidelines to the public housing program and provide residents with greater choices. It also allowed PHAs more remedies to replace or revitalize severely distressed public housing developments. Highlights of the Reform Act include: the establishment of flat rents; the requirement for PHAs to develop five-year and annual plans; income targeting, a requirement that 40% of all new admissions in public housing during any given fiscal year be reserved for extremely low-income families; and resident self-sufficiency incentives.

On July 29, 2016, the Housing Opportunity Through Modernization Act of 2016 (HOTMA) was signed into law. HOTMA made numerous changes to statutes governing HUD programs, including sections of the United States Housing Act of 1937. Title I of HOTMA contains 14 different sections that impact the public housing and Section 8 programs.

The Final Rule implementing broad changes to income and assets in Sections 102 and 104 of HOTMA, and for PHAs that administer the public housing program over-income provisions in Section 103, was officially published in the *Federal Register* on February 14, 2023. On September 29, 2023, HUD issued notice PIH 2023-27, which provided guidance to PHAs on the implementation of the program changes described in the Final Rule. HUD issued a revised version of the notice on February 2, 2024.

On May 14, 2026, HUD published Notice PIH 2026-15. The notice announced that, as of January 1, 2027, compliance with sections 102 and 104 of the HOTMA is mandatory for all PHAs, except PHAs who participate in the Moving to Work (MTW) demonstration and PHAs who exclusively use the HUD Family Reporting Software (FRS). For PHAs subject to this compliance deadline, all Form HUD-50058 transactions with an effective date of January 1, 2027, and later must be HOTMA-compliant. ~~he intent of this section is to provide the public and staff an overview of the history and operation of public housing.~~

~~The United States Housing Act of 1937 (the "Act") is responsible for the birth of federal housing program initiatives, known as public housing. The Act was intended to provide financial assistance to states and cities for public works projects, slum clearance and the development of affordable housing for low-income residents. There have been many changes to the program since its inception in 1937.~~

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1-II.B. PUBLIC HOUSING PROGRAM BASICS

HUD writes and publishes regulations in order to implement public housing laws enacted by Congress. HUD contracts with the CDA to administer programs in accordance with HUD regulations and provides an operating subsidy to the CDA. The CDA must create written policies that are consistent with HUD regulations. Among these policies is the CDA's Admissions and Continued Occupancy Policy (ACOP). The ACOP must be approved by the board of commissioners of the CDA.

The job of the CDA pursuant to HUD regulations is to provide decent, safe, and sanitary housing, in good repair, to low-income families at an affordable rent. The CDA screens applicants for public housing and, if they are determined to be eligible for the program, the CDA makes an offer of a housing unit. If the applicant accepts the offer, the CDA and the applicant will enter into a written lease agreement. At this point, the applicant becomes a tenant in the public housing program.

In the context of the public housing program, a tenant is defined as the adult person(s) (other than a live-in aide who (1) executed the lease with the CDA as lessee of the dwelling unit, or, if no such person now resides in the unit, (2) who resides in the unit, and who is the remaining head of household of the tenant family residing in the dwelling unit. [24 CFR 966.53]. The

Public Housing Occupancy Guidebook refers to tenants as "residents." The terms "tenant" and "resident" are used interchangeably in this policy. Additionally, this policy uses the term "family" or "families" for residents or applicants, depending on context.

Since the CDA owns the public housing development, the CDA is the landlord. The CDA must comply with all of the legal and management responsibilities of a landlord in addition to administering the program in accordance with HUD regulations and CDA policy.

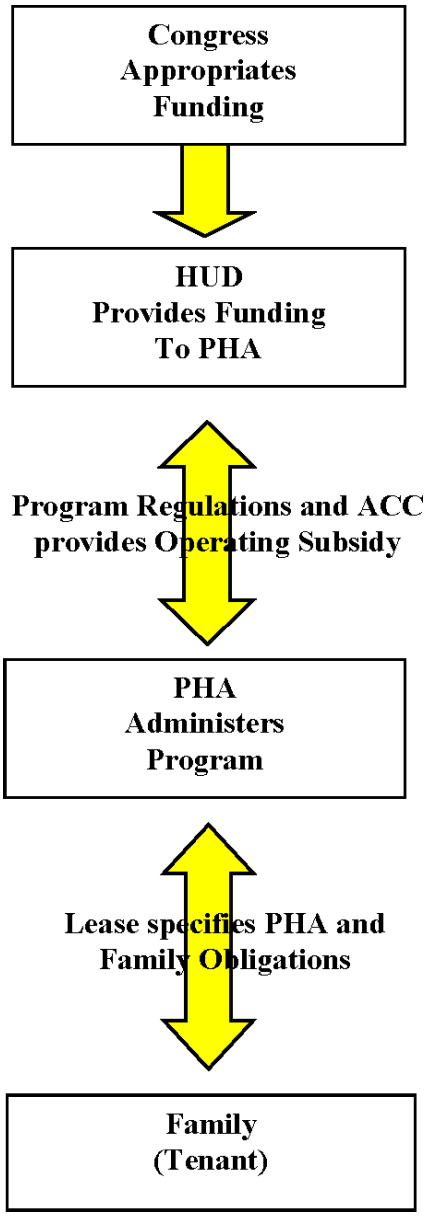
1-II.C. PUBLIC HOUSING PARTNERSHIPS

To administer the public housing program, the CDA must enter into an Annual Contributions Contract (ACC) with HUD. The CDA also enters into a contractual relationship with the tenant through the public housing lease. These contracts define and describe the roles and responsibilities of each party.

In addition to the ACC, the CDA and family must also comply with federal regulations and other HUD publications and directives. For the program to work and be successful, all parties involved – HUD, the CDA, and the tenant – play an important role.

The chart on the following page illustrates key aspects of these relationships.

The Public Housing Relationships



What does HUD do?

Federal law is the source of HUD responsibilities. HUD has the following major responsibilities:

- Develop regulations, requirements, handbooks, notices and other guidance to implement housing legislation passed by Congress
- Allocate operating subsidies to CDAs
- Allocate capital funding to CDAs
- Provide technical assistance to CDAs on interpreting and applying program requirements
- Monitor CDA compliance with program requirements and CDA performance in program administration.

What does the CDA do?

The CDA's responsibilities originate in federal regulations and the ACC. The CDA owns and manages public housing developments, administers the program under contract with HUD and has the following major responsibilities:

- Ensure compliance with all non-discrimination, equal opportunity, and fair housing laws, and ensure that the program is accessible to persons with disabilities
- Establish local policies and procedures for operating the program
- Accept applications from interested applicant families and determine whether they are income eligible for the program
- Maintain waiting list and select families for admission
- Screen applicant families for suitability as renters
- Maintain housing units by making any necessary repairs in a timely manner
- Make unit offers to families (minimize vacancies without overcrowding)
- Maintain properties to the standard of decent, safe, sanitary, and in good repair (including assuring compliance with uniform physical conditions standards)
- Make sure the CDA has adequate financial resources to maintain its housing stock
- Perform regular reexaminations of family income and composition in accordance with HUD requirements
- Collect rent due from the assisted family and comply with and enforce provisions of the lease
- Ensure that families comply with program rules
- Provide families with prompt and professional service
- Comply with HUD regulations and requirements, the Annual Contributions Contract, HUD-approved applications for funding, the CDA's ACOP, and other applicable federal, state and local laws.

What does the tenant do?

The tenant's responsibilities are articulated in the public housing lease. The tenant has the following broad responsibilities:

- Comply with the terms of the lease and CDA house rules, as applicable
- Provide the CDA with complete and accurate information, determined by the CDA to be necessary for administration of the program
- Cooperate in attending all appointments scheduled by the CDA
- Allow the CDA to inspect the unit at reasonable times and after reasonable notice
- Take responsibility for care of the housing unit, including any violations of uniform physical condition standards caused by the family
- Not engage in drug-related or violent criminal activity
- Notify the CDA before moving or termination of the lease
- Use the assisted unit only for residence and as the sole residence of the family. Not sublet the unit or assign the lease
- Promptly notify the CDA of any changes in family composition
- Not commit fraud, bribery, or any other corrupt or criminal act in connection with any housing programs
- Take care of the housing unit and report maintenance problems to the CDA promptly

If all parties fulfill their obligations in a professional and timely manner, the program responsibilities will be fulfilled in an effective manner.

1-II.D. APPLICABLE REGULATIONS

Applicable regulations include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 35: Lead-Based Paint
- 24 CFR Part 100: The Fair Housing Act
- 24 CFR Part 902: Public Housing Assessment System
- 24 CFR Part 903: Public Housing Agency Plans
- 24 CFR Part 945: Designated Housing
- 24 CFR Part 960: Admission and Occupancy Policies
- 24 CFR Part 965: PHA-Owned or Leased Projects – General Provisions
- 24 CFR Part 966: Lease and Grievance Procedures

PART III: THE ADMISSIONS AND CONTINUED OCCUPANCY POLICIES

1-III.A. OVERVIEW AND PURPOSE OF THE POLICY

The ACOP is the CDA's written statement of policies used to carry out the housing program in accordance with federal law and regulations, and HUD requirements. The ACOP is required by HUD and it must be available for public review [CFR 24 Part 903]. The ACOP also contains policies that support the objectives contained in the CDA's Agency Plan.

All issues related to public housing not addressed in this ACOP are governed by federal regulations, HUD handbooks and guidebooks, notices and applicable state and local laws. The policies in this ACOP have been designed to ensure compliance with the consolidated ACC and all HUD-approved applications for program funding. The CDA is responsible for complying with all changes in HUD regulations pertaining to public housing. If such changes conflict with this plan, HUD regulations will have precedence.

1-III.B. CONTENTS OF THE POLICY

Unlike the housing choice voucher program, HUD regulations for public housing do not contain a list of what must be included in the ACOP. However, individual regulations contain requirements of inclusion in the CDA's written policy. At a minimum, the ACOP plan should cover CDA policies on these subjects:

- The organization of the waiting list and how families are selected and offered available units, including any CDA admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening the CDA waiting list (Chapters 4 and 5)
- Transfer policies and the circumstances under which a transfer would take precedence over an admission (Chapter 12)
- Standards for determining eligibility, suitability for tenancy, and the size and type of the unit needed (Chapters 3 and 5)
- Procedures for verifying the information the family has provided (Chapter 7)
- The method for achieving deconcentration of poverty and income-mixing of public housing developments (Chapter 4)
- Grievance procedures (Chapter 14)
- Policies concerning payment by a family to the CDA of amounts the family owes the CDA (Chapter 15 and 16)
- Interim redeterminations of family income and composition (Chapter 9)
- Policies regarding community service requirements; (Chapter 11)
- Polices and rules about safety and ownership of pets in public housing (Chapter 10).

New Approach to Policy Development

HUD has developed an approach to monitoring CDAs that emphasizes the importance of consistency in operation and decision-making. The ACOP supports that goal by clearly setting forth the CDA's operating policies.

A primary focus of HUD's Rental Integrity Monitoring (RIM) program has been consistency in how CDAs conduct their business and in how HUD monitors CDA activities. Referring to and following the ACOP is essential to maintaining consistency in applying CDA policy.

HUD makes a distinction between mandatory policies and non-mandatory policies:

- Mandatory policies: those driven by legislation, regulations, current handbooks, current PIH notices, and legal opinions from the Office of General Counsel
- Optional, non-binding guidance: includes guidebooks, FAQs, PIH notices that have expired, and recommendations from individual HUD staff.

HUD expects CDAs to develop policies and procedures that are consistent with mandatory policies and to make clear the optional policies the CDA has adopted. The ACOP is comprised of mandatory policies and optional CDA policy. HUD's new direction emphasizes the need for a clearly written and comprehensive ACOP to guide staff in the clear and consistent application of policy.

HUD suggestions, recommendations, written issuances, and guidance are consistent with mandatory federal policy. Therefore, using HUD guidance in the preparation of CDA policy, even though it is not mandatory, provides a CDA with a "safe harbor." If a CDA adopts its own optional policy, it must make its own determination that such policy is consistent with legislation, regulations, and other mandatory requirements. There may be very good reasons for adopting a policy or procedure that is different than that suggested by HUD, but CDAs should carefully think through those decisions and be able to articulate how their policy is consistent with federal laws, regulations and mandatory policy.

1-III.C. UPDATING AND REVISING THE POLICY

The CDA will revise this ACOP as needed to comply with changes in HUD regulations. The original policy and any changes must be approved by the board of commissioners of the CDA, the pertinent sections included in the Agency Plan, and a copy provided to HUD.

The Dakota County CDA will review and update the ACOP as needed to reflect changes in regulations, operations or when needed to ensure staff consistency in operation.

Chapter 2

FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

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

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

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

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

~~Part III: Prohibition of Discrimination Against Limited English Proficiency Persons. This part details the obligations of the CDA to ensure meaningful access to the public housing program and its activities by persons with limited English proficiency (LEP). This part incorporates the Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons published January 22, 2007, in the *Federal Register*.~~

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

PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

Federal laws require CDAs to treat all applicants and tenant families equally, providing the same quality of service, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and disability. In addition, ~~HUD regulations provide~~ 24 CFR 5.105(a)(2) currently provides for additional protections regarding sexual orientation, gender identity, and marital status.

The CDA ~~will~~ must comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- ~~The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the *Federal Register* February 3, 2012 and further clarified in Notice PIH 2014-20~~
- The Violence against Women Act of 2013 (VAWA)
- Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted

When more than one civil rights law applies to a situation, the laws will be read and applied together.

2-I.B. NONDISCRIMINATION

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

The CDA shall not discriminate because of race, color, sex, religion, familial status, age, disability or national origin (called "protected classes").

Familial status includes children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18.

The CDA will not discriminate on the basis of marital status, gender identity, or sexual orientation as currently required under 24 CFR 5.105(a)(2). HUD enforcement of the *Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity*

Final Rule has been halted. HUD rescinded Notice PIH 2014-20 regarding Equal Access Rule enforcement and has removed references to the rule from the *HCV Guidebook*. On April 28, 2026, HUD published a proposed rule that seeks to eliminate references to "gender" and "gender identity" with "sex" as defined by Executive Order 14168. This rule has not yet been finalized or codified. Protections for gender and gender identity vary significantly by state. ~~[FR Notice 02/03/12].~~

CDA Policy

The Dakota County CDA identifies the following as additional protected classes:

- Creed
- Public Assistance
- Local human rights commission activity

The CDA will not use any of these factors to:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the public housing program
- Provide housing that is different from that provided to others
- Subject anyone to segregation or disparate treatment
- Restrict anyone's access to any benefit enjoyed by others in connection with the housing program
- Treat a person differently in determining eligibility or other requirements for admission
- Steer an applicant or tenant toward or away from a particular area based on any of these factors
- Deny anyone access to the same level of services
- Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program
- Discriminate in the provision of residential real estate transactions
- Discriminate against someone because they are related to or associated with a member of a protected class
- Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class

Providing Information to Families

The CDA must take steps to ensure that families are fully aware of all applicable civil rights laws. As part of the public housing orientation process, the CDA will provide information to public housing applicant families about civil rights requirements.

2.I.C. Discrimination Complaints

Geneal Housing Discrimination Complaints

If an applicant or tenant family believes that any family member has been discriminated against by the CDA, the family should advise the CDA. HUD requires the CDA to make every reasonable attempt to determine whether the applicant or tenant family's assertions have merit and take any warranted corrective action.

In all cases, the CDA may advise the family to file a fair housing complaint with HUD if the family feels they have been discriminated against under the Fair Housing Act.

Upon receipt of a housing discrimination complaint, the CDA is required to:

- ~~Provide written notice of the complaint to those alleged and inform the complainant that such notice was made~~

- ~~Investigate the allegations and provide the complainant and those alleged with findings and either a proposed corrective action or an explanation of why corrective action is not warranted~~
- ~~Keep records of all complaints, investigations, notices, and corrective actions [Notice PIH 2014-20]~~

CDA Policy

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

Within 10 business days of receiving the complaint, the CDA will investigate and attempt to remedy discrimination complaints made against the CDA. The CDA will also advise the family of their right to file a fair housing complaint with HUD's Office of Fair Housing and Equal Opportunity (FHEO) either online, over the phone, or by printing and mailing a housing discrimination compliant form to their regional FHEO Office. The fair housing poster, posted in conspicuous and accessible locations in the CDA lobbies, will reference how to file a complaint with FHEO.

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

~~The CDA will attempt to remedy discrimination complaints made against the CDA and will conduct an investigation into all allegations of discrimination.~~

~~Complainant's may also choose to contact the local HUD office.~~

VAWA Complaint Processing [Notice FHEO 2023-01]

A complainant may, not later than one year after an alleged VAWA violation has occurred or terminated, file a complaint with FHEO alleging such violation. If there is a violation that began prior to a year before the complaint is filed, but it continues into the one-year time period, HUD will accept the complaint. FHEO will investigate the complaint if it is timely and FHEO otherwise has jurisdiction. If a complaint is filed more than one year after the alleged violation occurred or terminated, FHEO may, but is not required to, investigate the allegations under the additional authority and procedures described in FHEO 2023-01.

Complaints do not need to allege a violation of the Fair Housing Act for FHEO to accept and investigate the complaint.

CDA Policy

Applicants or resident families who wish to file a VAWA complaint against the CDA may notify the CDA either orally or in writing.

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

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

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

PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES

2-II.A. OVERVIEW

One type of disability discrimination prohibited by the Fair Housing Act is the refusal to make reasonable accommodation in rules, policies, practices, or services when such accommodation may be necessary to afford a person with a disability the equal opportunity to use and enjoy a program or dwelling under the program.

The CDA must ensure that persons with disabilities have full access to the CDA's programs and services. This responsibility begins with the first inquiry of an interested family and continues through every programmatic area of the public housing program [24 CFR 8].

The CDA must provide a notice to each tenant that the tenant may, at any time during the tenancy, request reasonable accommodation of a handicap of a household member, including reasonable accommodation so that the tenant can meet lease requirements or other requirements of tenancy [24 CFR 966.7(b)].

CDA Policy

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

> "If you or anyone in your family is a person with disabilities, and you require a specific accommodation in order to fully utilize our programs and services, please contact the property management department."

2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

A "reasonable accommodation" is a change, exception, or adjustment to a policy, practice or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. Since policies and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others will sometimes deny them an equal opportunity to use and enjoy a dwelling. [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]

Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for the CDA, or result in a "fundamental alteration" in the nature of the program or service offered. A fundamental alteration is a modification that alters the essential nature of a provider's operations.

Types of Reasonable Accommodations

When it is reasonable (see definition above and Section 2-II.E), the CDA shall accommodate the needs of a person with disabilities. Examples include but are not limited to:

- Permitting applications and reexaminations to be completed by mail
- Providing "large-print" forms
- Conducting home visits
- Permitting a higher utility allowance for the unit if a person with disabilities requires the use

of specialized equipment related to the disability

- Modifying or altering a unit or physical system if such a modification or alteration is necessary to provide equal access to a person with a disability
- Installing a ramp into a dwelling or building
- Installing grab bars in a bathroom
- Installing visual fire alarms for hearing impaired persons
- Allowing a CDA-approved live-in aide to reside in the unit if that person is determined to be essential to the care of a person with disabilities, is not obligated for the support of the person with disabilities, and would not be otherwise living in the unit.
- Providing a designated handicapped-accessible parking space
- Allowing an assistance animal
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with CDA staff
- Displaying posters and other housing information in locations throughout the CDA's office in such a manner as to be easily readable from a wheelchair

2-II.C. REQUEST FOR AN ACCOMMODATION

If an applicant or participant indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, HUD requires that the CDA treat the information as a request for a reasonable accommodation, even if no formal request is made [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

The family must explain what type of accommodation is needed to provide the person with the disability full access to the CDA's programs and services.

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

CDA Policy

The CDA will encourage the family to make its request in writing using a reasonable accommodation request form.

2-II.D. VERIFICATION OF DISABILITY

The regulatory civil rights definition for persons with disabilities is provided in Exhibit 2-1 at the end of this chapter. The definition of a person with a disability for the purpose of obtaining a reasonable accommodation is much broader than the HUD definition of disability which is used for waiting list preferences and income allowances.

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

If a person's disability is obvious or otherwise known to the CDA, and if the need for the requested accommodation is also readily apparent or known, no further verification will be

required [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

If a family indicates that an accommodation is required for a disability that is not obvious or otherwise known to the CDA, the CDA must verify that the person meets the definition of a person with a disability, and that the limitations imposed by the disability require the requested accommodation.

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

- Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].
- The CDA must request only information that is necessary to evaluate the disability-related need for the accommodation. The CDA may not inquire about the nature or extent of any disability.
- Medical records will not be accepted or retained in the participant file.
- In the event that the CDA does receive confidential information about a person's specific diagnosis, treatment, or the nature or severity of the disability, the CDA will dispose of it. In place of the information, the CDA will note in the file that the disability and other requested information have been verified, the date the verification was received, and the name and address of the knowledgeable professional who sent the information [Notice PIH 2010-26].

2-II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act, Notice PIH 2010-26]

The CDA must approve a request for an accommodation if the following three conditions are met.

- The request was made by or on behalf of a person with a disability.
- There is a disability-related need for the accommodation.
- The requested accommodation is reasonable, meaning it would not impose an undue financial and administrative burden on the CDA, or fundamentally alter the nature of the CDA's operations.

Requests for accommodations must be assessed on a case-by-case basis. The determination of undue financial and administrative burden must be made on a case-by-case basis involving various factors, such as the overall size of the CDA's program with respect to the number of employees, type of facilities and size of budget, type of operation including composition and

structure of workforce, the nature and cost of the requested accommodation, and the availability of alternative accommodations that would effectively meet the family's disability-related needs.

Before making a determination whether to approve the request, the CDA may enter into discussion and negotiation with the family, request more information from the family, or may require the family to sign a consent form so that the CDA may verify the need for the requested accommodation.

CDA Policy

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

If the CDA denies a request for an accommodation because it is not reasonable (it would impose an undue financial and administrative burden or fundamentally alter the nature of the CDA's operations), the CDA will discuss with the family whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration to the public housing program and without imposing an undue financial and administrative burden.

If the CDA believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, the CDA will notify the family, in writing, of its determination within 30 days from the date of the most recent discussion or communication with the family. The notice will inform the family of the right to appeal the CDA's decision through an informal hearing (if applicable) or the grievance process (see Chapter 14).

2-II.F. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS

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

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

CDA Policy

To meet the needs of persons with hearing impairments, TTD/TTY (text telephone display / teletype) communication will be available.

To meet the needs of persons with vision impairments, large-print versions of key program documents will be made available upon request. When visual aids are used in public meetings or presentations, or in meetings with CDA staff, one-on-one assistance will be provided upon request.

Additional examples of alternative forms of communication are sign language interpretation; having material explained orally by staff; or having a third party representative (a friend, relative or advocate, named by the applicant) to receive, interpret and explain housing materials and be present at all meetings.

2-II.G. PHYSICAL ACCESSIBILITY

The CDA must comply with a variety of regulations pertaining to physical accessibility, including the following.

- Notice PIH 2010-26
- Section 504 of the Rehabilitation Act of 1973
- The Americans with Disabilities Act of 1990
- The Architectural Barriers Act of 1968
- The Fair Housing Act of 1988

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

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

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

Newly-constructed facilities must be designed to be readily accessible to and usable by persons with disabilities. Alterations to existing facilities must be accessible to the maximum extent feasible, defined as not imposing an undue financial and administrative burden on the operations of the public housing program.

2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

A CDA's decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of reasonable accommodation [24 CFR 966.7].

When applicants with disabilities are denied assistance, the notice of denial must inform them of their right to request an informal hearing [24 CFR 960.208(a)].

When a family's lease is terminated, the notice of termination must inform the family of their right to request a hearing in accordance with the CDA's grievance process [24 CFR 966.4(l)(3)(ii)].

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

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

PART III: ~~IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY (LEP)~~SERVING LIMITED ENGLISH PROFICIENT (LEP) PERSONS

2-III.A. OVERVIEW [OAG Memo 7/14/25, FHEO Memo 9/19/25, and Executive Order 14224]

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

~~The CDA will take affirmative steps to communicate with people who need services or information in a language other than English. These persons will be referred to as Persons with Limited English Proficiency (LEP).~~

~~LEP persons are defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English. For the purposes of this Admissions and Continued Occupancy Policy, LEP persons are public housing applicants and resident families, and parents and family members of applicants and resident families.~~

~~In order to determine the level of access needed by LEP persons, the CDA will balance the following four factors: (1) the number or proportion of LEP persons eligible to be served or likely to be encountered by the public housing program; (2) the frequency with which LEP persons come into contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people's lives; and (4) the resources available to the CDA and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on the CDA.~~

~~2-III.B. ORAL INTERPRETATION~~

~~The CDA will offer competent interpretation services free of charge, upon request, to the LEP person.~~

~~**CDA Policy**~~

~~The CDA will utilize a language line for telephone interpreter services. Where LEP persons desire, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to the free language services offered by the CDA. The interpreter may be a family member or friend.~~

~~The CDA will analyze the various kinds of contacts it has with the public, to assess language needs and decide what reasonable steps should be taken. "Reasonable steps" may not be reasonable where the costs imposed substantially exceed the benefits.~~

~~2-III.C. WRITTEN TRANSLATION~~

~~Translation is the replacement of a written text from one language into an equivalent written text~~

~~in another language.~~

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

In response, on July 14, 2025, the Office of the Attorney General (OAG) issued a memo on the implementation of EO 14224, which rescinded all prior guidance to federal agencies regarding Title VI of the Civil Right Act's prohibition against national origin discrimination affecting LEP persons. The memo presents a legal analysis that finds language is not an immutable characteristic entitled to Title VI protection and decoupling LEP persons from national origin discrimination. HUD FHEO has stated they will prioritize enforcement actions involving intentional discrimination where language has been used as a proxy for national origin or a vehicle for intentional discrimination [FHEO Memo 9/19/25].

The OAG Memo states that, where allowed by law, agencies should determine which of their programs and policies might serve the public at large better if operated exclusively in English. The OAG memo also states that agencies are not required to amend, remove, or otherwise stop production of all multilingual documents, products, or other services prepared or offered. Further, many states and localities have laws regarding language services to be provided to non-English speaking persons that may apply to the PHA.

Language for Limited English Proficiency Persons (LEP) can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by the public housing program.

CDA Policy

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

CDA Policy

The CDA will provide written translations of vital documents for each eligible LEP language group that constitutes 5 percent or 1,000 persons, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or

If there are fewer than 50 persons in a language group that reaches the 5 percent trigger, the CDA may not translate vital written materials, but will provide written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

2-III.D. IMPLEMENTATION PLAN

After completing the four-factor analysis and deciding what language assistance services are appropriate, the CDA shall determine whether it is necessary to develop a written implementation plan to address the identified needs of the LEP populations it serves.

If the CDA determines that it is not necessary to develop a written implementation plan, the absence of a written plan does not obviate the underlying obligation to ensure meaningful access by LEP persons to the CDA's public housing program and services.

CDA Policy

If it is determined that the CDA serves very few LEP persons, and the CDA has very limited resources, the CDA will not develop a written LEP plan, but will consider alternative ways to articulate in a reasonable manner a plan for providing meaningful access.

EXHIBIT 2-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER FEDERAL CIVIL RIGHTS LAWS [24 CFR Parts 8.3 and 100.201]

A person with a disability, as defined under federal civil rights laws, is any person who:

- Has a physical or mental impairment that substantially limits one or more of the major life activities of an individual, or
- Has a record of such impairment, or
- Is regarded as having such impairment

The phrase "physical or mental impairment" includes:

- Any physiological disorder or condition, cosmetic or disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
- Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to: such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

"Major life activities" includes, but is not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, breathing, learning, and/or working.

"Has a record of such impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major live activities.

"Is regarded as having an impairment" is defined as having a physical or mental impairment that does not substantially limit one or more major life activities but is treated by a public entity (such as the CDA) as constituting such a limitation; has none of the impairments defined in this section but is treated by a public entity as having such an impairment; or has a physical or mental impairment that substantially limits one or more major life activities, only as a result of the attitudes of others toward that impairment.

The definition of a person with disabilities does not include:

- Current illegal drug users
- People whose alcohol use interferes with the rights of others
- Persons who objectively pose a direct threat or substantial risk of harm to others that cannot be controlled with a reasonable accommodation under the public housing program

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

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

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

Chapter 3

ELIGIBILITY

INTRODUCTION

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

To be eligible for the public housing program:

- The applicant family must:
  - Qualify as a family as defined by HUD and the CDA.
  - 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 CDA's collection and use of family information as provided for in CDA-provided consent forms.
  - Not currently be receiving a duplicative subsidy.
  - Meet net asset and real property ownership restriction requirements.
- The CDA must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or the CDA.

This chapter contains three parts:

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

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

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

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

3-I.A. OVERVIEW

Some eligibility criteria and program rules vary depending upon the composition of the family requesting assistance. In addition, some requirements apply to the family as a whole and others apply to individual persons who will live in the public housing unit. This part provides information that is needed to correctly identify family and household members, and explains HUD's eligibility rules.

3-I.B. FAMILY AND HOUSEHOLD [24 CFR 5.105(a)(2), 24 CFR 5.403, FR Notice 02/03/12, and Notice PIH 2014-20]

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

Family

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

CDA Policy

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

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

Gender Identity means actual or perceived gender characteristics[24 CFR 5.100]. .

Sexual orientation means homosexuality, heterosexuality, or bisexuality [24 CFR 5.100].

Household

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

3-I.C. FAMILY BREAKUP AND REMAINING MEMBER OF TENANT FAMILY

Family Breakup

Except under the following conditions, the CDA has discretion to determine which members of an assisted family continue to receive assistance if the family breaks up:

- If the family breakup results from an occurrence of domestic violence, dating violence, sexual assault, or stalking, the CDA must ensure that the victim retains assistance. (For documentation requirements and policies related to domestic violence, dating violence, sexual assault, and stalking, see section 16-VII.D of this plan.)
- If a court determines the disposition of property between members of the assisted family, the CDA is bound by the court's determination of which family members continue to receive assistance.

CDA Policy

The following conditions are at the CDA's discretion and will be handled as stated below.

- When a family on the waiting list breaks up into two otherwise eligible families, only oneof the new families may retain the original application date. Other former family members may submit a new application with a new application date if the waiting list is open.
- If a family breaks up into two otherwise eligible families while living in public housing,only one of the new families will retain occupancy of the unit.
- In the absence of a judicial decision or an agreement among the original family members,the CDA will determine which family will retain their placement on the waiting list or continue in occupancy. In making its determination, the CDA will take into considerationthe following factors: (1) the interest of any minor children, including custody arrangements; (2) the interest of any ill, elderly, or disabled family members; (3) the interest of any family member who is or has been the victim of domestic violence, datingviolence, sexual assault, or stalking, including a family member who was forced to leave a public housing unit as a result of such actual or threatened abuse, and provides documentation in accordance with section 16-VII.D of this ACOP; (4) any possible risks to family members as a result of domestic violence or criminal activity; and (5) the recommendations of social service professionals.

Remaining Member of a Tenant Family [24 CFR 5.403]

The HUD definition of family includes the *remaining member of a tenant family,* which is a member of a resident family who remains in the unit when other members of the family have left the unit [PH Occ GB, p. 26]. Household members such as live-in aides, foster children, and foster adults do not qualify as remaining members of a family.

If dependents are the only "remaining members of a tenant family" and there is no family member able to assume the responsibilities of the head of household, see Chapter 6, Section 6-I.B, for the policy on "Caretakers for a Child."

3-I.D. HEAD OF HOUSEHOLD [24 CFR 5.504(b)]

Head of household means the adult member of the family who is considered the head for purposes of determining income eligibility and rent. The head of household is responsible for ensuring that the family fulfills all of its responsibilities under the program, alone or in conjunction with a cohead or spouse.

CDA Policy

- The family may designate any qualified family member as the head of household.
- The head of household must have the legal capacity to enter into a lease under state and local law. A minor who is emancipated under state law may be designated as head of household.

3-I.E. SPOUSE, COHEAD, AND OTHER ADULT

A family may have a spouse or cohead, but not both [HUD-50058 IB, p. 13].

Spouse means the marriage partner of the head of household.

CDA Policy

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

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

CDA Policy

- Minors who are emancipated under state law may be designated as a cohead.

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

3-I.F. DEPENDENT [24 CFR 5.603]

A *dependent* is a family member who is under 18 years of age or a person of any age who is a person with a disability or a full-time student, except that the following persons can never be dependents: the head of household, spouse, cohead, foster children/adults and live-in aides. Identifying each dependent in the family is important because each dependent qualifies the family for a deduction from annual income as described in Chapter 6.

Joint Custody of Dependents

CDA Policy

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or resident family 50 percent or more of the time.

When there are two separate households on the waiting list or receiving assistance, whether in the same program or not, only one family will be allowed to claim the dependents as family members.

When more than one applicant or assisted family (regardless of program) are claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the CDA will make the determination based on available documents such as court orders, an IRS income tax return showing which family has claimed the child for income tax purposes, school records, or other credible documentation.

3-I.G. FULL-TIME STUDENT [24 CFR 5.603]

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

Identifying each FTS is important because (1) each family member that is an FTS, other than the head, spouse, or cohead, qualifies the family for a dependent deduction and (2) the income of such an FTS is treated differently from the income of other family members.

3-I.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY [24 CFR 5.100, 5.403, 945.105, and FR Notice 02/03/12]

Elderly Persons

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

Near-Elderly Persons

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

Elderly Family

An *elderly family* is one in which the head, spouse, cohead, or sole member is an elderly person. Identifying elderly families is important because these families qualify for the elderly family allowance and the medical allowance as described in Chapter 6 and may qualify for a particular type of development as noted in Chapter 4.

3-I.I. PERSONS WITH DISABILITIES AND DISABLED FAMILY [24 CFR 5.403, FR Notice 02/03/12]

Persons with Disabilities

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

As discussed in Chapter 2, the CDA must make all aspects of the public housing program accessible to persons with disabilities and consider requests for reasonable accommodations when a person's disability limits their full access to the unit, the program, or the CDA's services.

Disabled Family

A *disabled family* is one in which the head, spouse, or cohead is a person with disabilities. Identifying disabled families is important because these families qualify for the disabled family allowance and the medical allowance as described in Chapter 6 and may qualify for a particular type of development as noted in Chapter 4.

Even though persons with drug or alcohol dependencies are considered persons with disabilities for the purpose of non-discrimination, this does not prevent the CDA from denying admission or taking action under the lease for reasons related to alcohol and drug abuse in accordance with the policies found in Part III of this chapter and in Chapter 13.

3-I.J. GUESTS [24 CFR 5.100]

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

The lease must provide that the tenant has the right to exclusive use and occupancy of the leased unit by the members of the household authorized to reside in the unit in accordance with the lease, including reasonable accommodation of their guests [24 CFR 966.4(d)]. The head of household is responsible for the conduct of visitors and guests, inside the unit as well as anywhere on or near CDA premises [24 CFR 966.4(f)].

CDA Policy

A guest can remain in the unit no longer than 15 consecutive/cumulative days in any 12 month period.

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

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

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

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

3-I.K. FOSTER CHILDREN AND FOSTER ADULTS

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

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

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

CDA Policy

A foster child is a child that is in the legal guardianship or custody of a state, county, or private adoption or foster care agency, yet is cared for by foster parents in their own homes, under some kind of short-term or long-term foster care arrangement with the custodial agency.

Children that are temporarily absent from the home as a result of placement in foster care are discussed in Section 3-I.L.

3-I.L. ABSENT FAMILY MEMBERS

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

Definitions of Temporarily and Permanently Absent

CDA Policy

Generally, an individual who is or is expected to be absent from the public housing unit for 60 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally, an individual who is or is expected to be absent from the public housing unit for more than 60 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Students

CDA Policy

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to the CDA indicating that the student has established a separate household or the family declares that the student has established a separate household.

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

Children temporarily absent from the home as a result of placement in foster care are considered members of the family.

CDA Policy

If a child has been placed in foster care, the CDA will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.

Absent Head, Spouse, or Cohead

CDA Policy

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

Individuals Confined for Medical Reasons

CDA Policy

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

If there is a question about the status of a family member, the CDA will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

Return of Permanently Absent Family Members

CDA Policy

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

3-I.M. LIVE-IN AIDE

Live-in aide means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who: (1) is determined to be essential to the care and well-being of the person(s), (2) is not obligated for the support of the person(s), and (3) would not be living in the unit except to provide the necessary supportive services [24 CFR 5.403].

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

A live-in aide is considered a household member but not a family member. The income of the live-in aide is not counted in determining the annual income of the family [24 CFR 5.609(c)(5)]. Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. However, a relative who serves as a live-in aide is not considered a family member and would not be considered a remaining member of a tenant family.

CDA Policy

A family's request for a live-in aide may be made orally or in writing. The CDA will verify the need for a live-in aide with a reliable, knowledgeable professional as provided by the family, such as a doctor, social worker, or case worker. For continued approval, the family must submit a new, written request—subject to CDA verification—at each annual reexamination.

In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is (1) not obligated for the support of the person(s) needing the care, and (2) would not be living in the unit except to provide the necessary supportive services.

The CDA will not approve a particular person as a live-in aide, and may withdraw such approval if [PH GB, p. 195 and 24 CFR 966.4(d)(3)(i)]:

- The person commits fraud, bribery or any other corrupt or criminal act in connection withany federal housing program;
- The person commits drug-related criminal activity or violent criminal activity; or
- The person currently owes rent or other amounts to the CDA or to another landlord.

Within 30 days of receiving a request for a live-in aide, including all required documentation related to the request, the CDA will notify the family of its decision in writing.

PART II: BASIC ELIGIBILITY CRITERIA

3-II.A. INCOME ELIGIBILITY AND TARGETING

Income Limits

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

Types of Low-Income Families [24 CFR 5.603(b)]

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

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

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

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

Using Income Limits for Eligibility [24 CFR 960.201 and Notice PIH 2023-27]

Income limits are used for eligibility only at admission. Eligibility is established by comparing a family's annual income with HUD's published income limits. To be income eligible, the annual income of an applicant must be within the *low-income* limit. 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 occupancy standards.

Using Income Limits for Targeting [24 CFR 960.202(b)]

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

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

The fiscal year credit for housing choice voucher program admissions that exceed the minimum voucher program targeting requirement must not exceed the lower of:

- Ten percent of public housing waiting list admissions during the CDA fiscal year
- Ten percent of waiting list admission to the CDA's housing choice voucher program during the CDA fiscal year
- The number of qualifying low-income families who commence occupancy during the fiscal year of public housing units located in census tracts with a poverty rate of 30 percent or

more. For this purpose, qualifying low-income family means a low-income family other than an extremely low-income family.

For discussion of how income targeting is used in tenant selection, see Chapter 4.

3-II.B. OCCUPANCY BY OVER-INCOME FAMILIES [24 CFR 960.503]

A PHA that owns or operates fewer than 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), in accordance with its PHA annual plan (or supporting documents), if all the following conditions are satisfied:

- There are no eligible low-income families on the CDA waiting list or applying for public housing assistance when the unit is leased to an over-income family;
- The CDA 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 30 days before offering the unit to an over-income family;
- 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;
- 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
- The PHA gives the over-income family at least 30 days' notice to vacate the unit when the unit is needed for rental to an eligible family.

PHA Policy

The CDA does not admit any non-income-eligible families.

3-II.~~B~~C. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5, Subpart E]

Housing assistance is available only to individuals who are U.S. citizens, U.S. nationals (herein referred to as citizens and nationals), or noncitizens that have eligible immigration status. At least one family member must be a citizen, national, or noncitizen with eligible immigration status in order for the family to qualify for any level of assistance.

All applicant families must be notified of the requirement to submit evidence of their citizenship status or eligible immigration status or to elect not to contend that they have eligible status when they apply for assistance [24 CFR 5.508(f)(1)(i)]~~when they apply. Where feasible, and in accordance with the CDA's Limited English Proficiency Plan, the notice must be in a language that is understood by the individual if the individual is not proficient in English.~~

Declaration [24 CFR 5.508]

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

U.S. Citizens and Nationals

In general, citizens and nationals are required to submit only a signed declaration that claims their status. However, HUD regulations permit the CDA to request additional documentation of their status, such as a passport.

CDA Policy

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

Eligible Noncitizens

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

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

Ineligible Noncitizens

Those noncitizens who do not wish to contend their immigration status are required to have their names listed on a noncontending family members listing, signed by the head, spouse, or cohead (regardless of citizenship status), indicating their ineligible immigration status. The CDA is not required to verify a family member's ineligible status and is not required to report an individual's unlawful presence in the U.S. to the United States Citizenship and Immigration Services (USCIS).

Providing housing assistance to noncitizen students is prohibited [24 CFR 5.522]. This prohibition extends to the noncitizen spouse of a noncitizen student as well as to minor children who accompany or follow to join the noncitizen student. Such prohibition does not extend to the citizen spouse of a noncitizen student or to the children of the citizen spouse and noncitizen student. Such a family is eligible for prorated assistance as a mixed family.

Mixed Families

A family is eligible for admission as long as at least one member is a citizen, national, or eligible noncitizen. Families that include eligible and ineligible individuals are considered *mixed families*. Such families will be given notice that their assistance will be prorated, and that they may request a hearing if they contest this determination. See Chapter 6 for a discussion of how rents are prorated, and Chapter 14 for a discussion of grievance hearing procedures.

Ineligible Families [24 CFR 5.514(d), (e), and (f)]

A CDA may elect to provide assistance to a family before the verification of the eligibility of the individual or one family member [24 CFR 5.512(b)]. Otherwise, no individual or family may be assisted prior to the affirmative establishment by the CDA that the individual or at least one family member is eligible [24 CFR 5.512(a)].

CDA Policy

The CDA will not provide assistance to a family before the verification of at least one family member as a citizen, national, or eligible noncitizen.

When the CDA determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice within 30 days of the determination.

The notice will explain the reasons for the denial of assistance and will advise the family of its right to request an appeal to the United States Citizenship and Immigration Services (USCIS), or to request a grievance hearing with the CDA. The grievance hearing with the CDA may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice must also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the grievance hearing process. (Grievance hearing procedures are contained in Chapter 14.)

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

For new occupants joining the resident family the CDA must verify status at the first interim or regular reexamination following the person's occupancy, whichever comes first.

If an individual qualifies for a time extension for the submission of required documents, the CDA must grant such an extension for no more than 30 days [24 CFR 5.508(h)].

Each family member is required to submit evidence of eligible status only one time during continuous occupancy.

CDA Policy

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

3-II.~~C~~D. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218, Notice PIH 20~~12-10~~18-24]

The applicant and all members of the applicant's household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN. If a child under age 6 has been added to an applicant family within the 6 months prior to program admission, an otherwise eligible family may be admitted to the program and must disclose and document the child's SSN within 90 days of admission. A detailed discussion of acceptable documentation is provided in Chapter 7.

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

~~In addition, each participant who has not previously disclosed an SSN, has previously disclosed an SSN that HUD or the SSA determined was invalid, or has been issued a new SSN must submit their complete and accurate SSN and the documentation required to verify the SSN at the time of the next interim or annual reexamination or recertification. Participants age 62 or older as of January 31, 2010, whose determination of eligibility was begun before January 31, 2010, are exempt from this requirement and remain exempt even if they move to a new assisted unit.~~

The CDA must deny assistance to an applicant family if they do not meet the SSN disclosure and documentation requirements contained in 24 CFR 5.216.

3-II.~~D~~E. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.230 and 24 CFR 5.232]

HUD requires each adult family member, and the head of household, spouse, or cohead, regardless of age, to sign form HUD-9886, Authorization for the Release of Information Privacy Act Notice, the form HUD-52675, Debts Owed to Public Housing Agencies and Terminations, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements. The consent form remains effective until the family is denied assistance, assistance is terminated, or the family provides written notification to revoke consent.

The CDA must deny admission to the program if any member of the applicant family fails to sign and submit consent forms which allow the CDA to obtain information that the CDA has determined is necessary in administration of the public housing program [24 CFR 960.259(a) and (b) and 24 CFR 5.232(c)].

CDA Policy

The CDA has established a policy that the family's revocation of consent to allow the CDA to access records from financial institutions will result in denial of admission.

3-II.F. EIV SYSTEM SEARCHES [EIV FAQs; EIV System Training 9/30/20; and Notice PIH 2023-27]

Existing Tenant Search

Prior to admission to the program, the PHA must search for all household members using the EIV Existing Tenant Search module. The PHA must review the reports for any SSA matches involving another PHA or a multifamily entity and follow up on any issues identified. The PHA must provide the family with a copy of the Existing Tenant Search results if requested. At no time may any family member receive duplicative assistance.

If the tenant is a new admission to the PHA, and a match is identified at a multifamily property, the PHA must report the program admission date to the multifamily property and document the notification in the tenant file. The family must provide documentation of move-out from the assisted unit, as applicable.

CDA Policy

The CDA will contact the other PHA or owner identified in the report to confirm that the family has moved out of the unit and obtain documentation of current tenancy status, including a form HUD-50058 or 50059, as applicable, showing an end of participation. The CDA will only approve assistance contingent upon the move-out from the currently occupied assisted unit.

Debts Owed to PHAs and Terminations

All adult household members must sign the form HUD-52675, Debts Owed to Public Housing and Terminations. Prior to admission to the program, the CDA must search for each adult family member in the Debts Owed to PHAs and Terminations module.

If a current or former tenant disputes the information in the module, the tenant should contact the PHA directly in writing to dispute the information and provide any documentation that supports the dispute. If the PHA determines that the disputed information is incorrect, the PHA will update or delete the record from EIV. Former tenants may dispute debt and termination information for a period of up to three years from the end of participation date in the program.

CDA Policy

The CDA will require each adult household member to sign the form HUD-52675 once at the eligibility determination. Any new members added to the household after admission will be required to sign the form HUD-52675 prior to being added to the household.

The CDA will search the Debts Owed to PHAs and Terminations module as part of the eligibility determination for new households and as part of the screening process for any household members added after the household is admitted to the program. If any information on debts or terminations is returned by the search, the CDA will determine if this information warrants a denial in accordance with the policies in Part III of this chapter.

EIV Income Report

For each new admission, the PHA is required to review income information in EIV to confirm and validate family reported income within 120 days after the move-in information is transmitted to HUD. The PHA must print and maintain copies of the reports in the tenant file and resolve any discrepancies with the family.

PART III: DENIAL OF ADMISSION

3-III.A. OVERVIEW

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

In addition, HUD requires or permits the CDA to deny admission based on certain types of current or past behaviors of family members as discussed in this part. The CDA's authority in this area is limited by the Violence against Women Act of 2013 (VAWA), which expressly prohibits the denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been the victim of domestic violence, dating violence, sexual assault, or stalking [24 CFR 5.2005(b)].

The regulations state that the PHA must prohibit admission for certain types of criminal activity and give the PHA the option to deny for other types of previous criminal history. PHA's should safeguard the due process rights of applicants and tenants.

This part covers the following topics:

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

3-III.B. REQUIRED DENIAL OF ADMISSION [24 CFR 960.204]

CDAs are required to establish standards that prohibit admission of an applicant to the public housing program if they have engaged in certain criminal activity or if the CDA has reasonable cause to believe that a household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

Where the statute requires that the CDA prohibit admission for a prescribed period of time after some disqualifying behavior or event, the CDA may choose to continue that prohibition for a longer period of time [24 CFR 960.203(c)(3)(ii)].

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

- Any member of the household has been evicted from federally-assisted housing in the last 3 years for drug-related criminal activity. HUD permits but does not require the CDA to admit an otherwise-eligible family if the household member has completed a CDA-approved drug rehabilitation program or the circumstances which led to eviction no longer exist (e.g. the person involved in the criminal activity no longer lives in the household).

CDA Policy

- The CDA will not admit an otherwise-eligible family who was evicted from federally-assisted housing within the past 3 years for drug-related criminal activity under any circumstances.

- *Currently engaged in* is defined as any use of illegal drugs during the previous six months, unless the applicant is currently enrolled in and fully compliant with treatment.
- In determining reasonable cause, the CDA will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. A conviction will be given more weight than an arrest. A record of arrest(s) will not be used as the sole basis for the denial or proof that the applicant engaged in disqualifying criminal activity. The CDA will also consider evidence from treatment providers or community-based organizations providing services to household members.
- If any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine in any location, not just federally assisted housing, the family will be denied admission.
- If any household member is subject to a lifetime~~currently~~ register~~ed~~ation requirement ~~as a sex offender~~ under a ~~S~~state lifetime sex offender registration program~~requirement, the family will be denied admission~~.

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

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

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

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

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

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

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

- Any property for which the family is receiving assistance for a manufactured home under 24 CFR 982.620 or under the HCV Homeownership program;
- Any property that is jointly owned by a member of the family and at least one non-household member who does not live with the family, if the non-household member resides at the jointly owned property;
- Any family that is offering the property for sale; or
- Any person who is a victim of domestic violence, dating violence, sexual assault, or stalking.
  - When a family asks for an exception because a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, the 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;

CDA Policy

The CDA defines *not sufficient for the size of the family* as being overcrowded based on the CDA's occupancy standards in Chapter 5.

- Is geographically located so as to be a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by the PHA or owner);

CDA Policy

In general, the CDA defines *a geographic hardship* to include when a family members' work, school, health care provider, or other necessary service is located an unreasonable distance from the real property or there is a lack of adequate transportation options for the family to access work, school, health care, or other necessary services. The CDA will consider circumstantial details a family faces when determining whether a geographical hardship is present.

- Is not safe to reside in because of the physical condition of the property (e.g., property's physical condition poses a risk to the family's health and safety and the condition of the property cannot be easily remedied); or
- Is not a property that a family may reside in under the State or local laws of the jurisdiction where the property is located.

If a family meets one of the above exceptions, the real property is not automatically excluded from the calculation of net family assets. Unless the real property is specifically excluded from net family assets as described in 24 CFR 5.603 and Chapter 6 of this policy, it will be included in net family assets. If the value of that real property brings the net family assets above the HUD-published asset limitation amount, the family is out of compliance with the asset limitation. See Chapter 7 for information on verifying net family assets for purposes of the asset limitation.

3-III.~~C~~D. OTHER PERMITTED REASONS FOR DENIAL OF ADMISSION

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

Criminal Activity [24 CFR 960.203(c)]

The CDA is responsible for screening family behavior and suitability for tenancy. In doing so, the CDA may consider an applicant's history of criminal activity involving crimes of physical violence to persons or property and other criminal acts which would adversely affect the health, safety, or welfare of other tenants.

CDA Policy

If any household member is currently engaged in, or has engaged in any of the following criminal activities, within the past five years and dependent on the level of the conviction/pattern, the family will be denied admission.

- *Drug-related criminal activity*, defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug [24 CFR 5.100].
- *Violent criminal activity*, defined by HUD as any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage [24 CFR 5.100].
- Criminal activity that may threaten the health, safety, or welfare of other tenants [24 CFR 960.203(c)(3)].
- Criminal activity that may threaten the health or safety of CDA staff, contractors, subcontractors, or agents.
- Criminal sexual conduct, including but not limited to sexual assault, incest, open and gross lewdness, or child abuse.

- Evidence of such criminal activity includes, but is not limited to any record of convictions, arrests, or evictions for suspected drug-related or violent criminal activity of household members within the past 5 years. A conviction for such activity will be given more weight than an arrest or an eviction. A record of arrest(s) will not be used as the sole basis for the denial or proof that the applicant engaged in disqualifying criminal activity.

In making its decision to deny assistance, the CDA will consider the factors discussed in Sections 3-III.E and 3-III.F. Upon consideration of such factors, the CDA may, on a case-by-case basis, decide not to deny assistance.

Previous Behavior [960.203(c) and (d) and PH Occ GB, p. 48]

HUD authorizes the CDA to deny admission based on relevant information pertaining to the family's previous behavior and suitability for tenancy.

In the event of the receipt of unfavorable information with respect to an applicant, the CDA must consider the time, nature, and extent of the applicant's conduct (including the seriousness of the offense). As discussed in Section 3-III.F, the CDA may also need to consider whether the cause of the unfavorable information may be that the applicant is the victim of domestic violence, dating violence, sexual assault, or stalking.

CDA Policy

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

- Has a pattern of unsuitable past performance in meeting financial obligations, including rent within the past five years
- Has a pattern of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences within the past five years which may adversely affect the health, safety, or welfare of other residents
- Has a pattern of eviction from housing or termination from residential programs within the past five years (considering relevant circumstances)
- Owes rent or other amounts to the CDA or any other owner in connection with any assisted housing program or private landlords.
- Misrepresented or does not provide complete information related to eligibility, including income, award of preferences for admission, expenses, family composition or rent
- Has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program
- Has engaged in or threatened violent or abusive behavior toward CDA personnel
    - *Abusive or violent behavior towards CDA personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violentbehavior.
    - *Threatening* refers to oral or written threats or physical gestures that communicateintent to abuse or commit violence.

In making its decision to deny admission, the CDA will consider the factors discussed in Sections 3-III.E and 3-III.F. Upon consideration of such factors, the CDA may, on a case-by-case basis, decide not to deny admission.

The CDA will consider the existence of mitigating factors, such as loss of employment or other financial difficulties, before denying admission to an applicant based on the failure to meet prior financial obligations.

3-III.~~D~~E. SCREENING

Screening for Eligibility

CDAs are authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the public housing program. This authority assists the CDA in complying with HUD requirements and CDA policies to deny assistance to applicants who are engaging in or have engaged in certain criminal activities. In order to obtain access to the records the CDA must require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903].

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

CDA Policy

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

If the results of the criminal background check indicate there may have been past criminal activity, but the results are inconclusive, the CDA will request a fingerprint card and will request information from the National Crime Information Center (NCIC).

CDAs are required to perform criminal background checks necessary to determine whether any household member is subject to a lifetime registration requirement under a state sex offender program in the state where the housing is located, as well as in any other state where a household member is known to have resided [24 CFR 960.204(a)(4)]. Applicants must provide a complete list of all states in which any household member has resided. Failure to accurately respond to any question during the application process is cause to deny the family admission [Notice PIH 2012-28].

CDA Policy

The CDA will perform criminal background checks for all adult household members.

The CDA will use the Dru Sjodin National Sex Offender database to screen applicants for admission.

Additionally, CDAs must ask whether the applicant, or any member of the applicant's household, is subject to a lifetime registered sex offender registration requirement in any state [Notice PIH 2012-28].

If the CDA proposes to deny admission based on a criminal record or on lifetime sex offender registration information, the CDA must notify the household of the proposed action and must provide the subject of the record and the applicant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to a denial of admission [24 CFR 5.903(f) and 5.905(d)].

Obtaining Information from Drug Treatment Facilities [24 CFR 960.205]

HUD authorizes CDAs to request and obtain information from drug abuse treatment facilities concerning applicants. Specifically, the CDA may require each applicant to submit for all household members who are at least 18 years of age, and for each family head, spouse, or cohead regardless of age, one or more consent forms signed by such household members that requests any drug abuse treatment facility to inform the CDA whether the drug abuse treatment facility has reasonable cause to believe that the household member is currently engaging in illegal drug use.

Drug Abuse Treatment Facility means an entity that holds itself out as providing, and provides, diagnosis, treatment, or referral for treatment with respect to the illegal drug use, and is either an identified unit within a general care facility, or an entity other than a general medical care facility.

Currently engaging in illegal use of a drug means illegal use of a drug that occurred recently enough to justify a reasonable belief that there is continuing illegal drug use by a household member.

Any consent form used for the purpose of obtaining information from a drug abuse treatment facility to determine whether a household member is currently engaging in illegal drug use must expire automatically after the CDA has made a final decision to either approve or deny the admission of such person.

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

The CDA must submit a request for information only for certain household members, whose criminal record indicates prior arrests or conviction for any criminal activity that may be a basis for denial of admission or whose prior tenancy records indicate that the proposed household member engaged in destruction of property or violent activity against another person, or they interfered with the right of peaceful enjoyment of the premises of other residents.

If the CDA chooses to obtain such information, it must abide by the HUD requirements for records management and confidentiality as described in 24 CFR 960.205(f).

CDA Policy

The CDA will accept information from drug abuse treatment facilities to determine whether any applicant family's household members are currently engaging in illegal drug activity only when the CDA has determined that the family will be denied admission based on a family member's drug-related criminal activity, and the family claims that the culpable family member has successfully completed a supervised drug or alcohol rehabilitation program.

Screening for Suitability as a Tenant [24 CFR 960.203(c)]

The CDA is responsible for the screening and selection of families to occupy public housing units. The CDA may consider all relevant information. Screening is important to public housing communities and program integrity, and to ensure that assisted housing is provided to those families that will adhere to lease obligations.

CDA Policy

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

The CDA will consider the family's history with respect to the following factors:

- Payment of rent and utilities
- Caring for a unit and premises
- Respecting the rights of other residents to the peaceful enjoyment of their housing
- Criminal activity that is a threat to the health, safety, or property of others
- Behavior of all household members as related to the grounds for denial as detailed in Sections 3-III. B and C
- Compliance with any other essential conditions of tenancy

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

CDAs have a variety of resources available to them for determination of the suitability of applicants. Generally, CDAs should reject applicants who have recent behavior that would warrant lease termination for a public housing resident.

CDA Policy

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

- Past performance in meeting financial obligations, especially rent
- CDA and landlord references for the past five years, gathering information about past performance meeting rental obligations such as rent payment record, late payment record, whether the CDA/landlord ever began or completed lease termination for non-payment, and whether utilities were ever disconnected in the unit. CDA and landlords will be asked if they would rent to the applicant family again.
- Utility Company references covering the monthly amount of utilities, late payment, disconnection, return of a utility deposit and whether the applicant can get utilities turned on in his/her name (Use of this inquiry will be reserved for applicants applying for units where there are tenant-paid utilities.)
- The CDA will check court records of eviction actions and other financial judgments, and credit reports. A lack of credit history will not disqualify someone from becoming a public housing resident.
- If previous landlords or the utility company do not respond to requests from the CDA, the applicant may provide other documentation that demonstrates their ability to meet financial obligations (e.g. rent receipts, cancelled checks, etc.)
- Disturbances of Neighbors, Destruction of Property or Living or Housekeeping Habits at Prior Residences that May Adversely Affect Health, Safety, or Welfare of Other Tenants, or Cause Damage to the Unit or the Development
- Landlord references for the past five years, gathering information on whether the applicant kept a unit clean, safe and sanitary; whether they violated health or safety codes; whether any damage was done by the applicant to a current or previous unit or the development, and, if so, how much the repair of the damage cost; whether the applicant's

housekeeping caused insect or rodent infestation; and whether the neighbors complained about the applicant or whether the police were ever called because of disturbances.

- Police and court records within the past five years will be used to check for any evidence of disturbance of neighbors or destruction of property that might have resulted in arrest or conviction. A record of arrest(s) will not be used as the sole basis for the denial or proof that the applicant engaged in disqualifying criminal activity.
- Home visits may be used to determine the applicant's ability to care for the unit.

3-III.~~E~~F. CRITERIA FOR DECIDING TO DENY ADMISSION

Evidence

CDA Policy

The CDA will use the preponderance of the evidence as the standard for making all admission decisions.

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Consideration of Circumstances [24 CFR 960.203(c)(3) and (d)]

HUD authorizes the CDA to consider all relevant circumstances when deciding whether to deny admission based on a family's past history except in the situations for which denial of admission is mandated (see Section 3-III.B).

In the event the CDA receives unfavorable information with respect to an applicant, consideration must be given to the time, nature, and extent of the applicant's conduct (including the seriousness of the offense). In a manner consistent with its policies, CDAs may give consideration to factors which might indicate a reasonable probability of favorable future conduct.

CDA Policy

The seriousness of the case, especially with respect to how it would affect other residents' safety or property

The effects that denial of admission may have on other members of the family who were not involved in the action or failure to act

The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or (as discussed further in section 3-III.F) a victim of domestic violence, dating violence, sexual assault, or stalking

The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history and the likelihood of favorable conduct in the future

While a record of arrest(s) will not be used as the sole basis for denial, an arrest may, however, trigger an investigation to determine whether the applicant actually engaged in disqualifying criminal activity. As part of its investigation, the CDA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The CDA may also

consider:

- Any statements made by witnesses or the applicant not included in the police report
- Whether criminal charges were filed
- Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal
- Any other evidence relevant to determining whether or not the applicant engaged in disqualifying activity
- Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property
- Evidence of the applicant family's participation in or willingness to participate in social service or other appropriate counseling service programs

In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully

The CDA will require the applicant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

Removal of a Family Member's Name from the Application

Should the CDA's screening process reveal that an applicant's household includes an individual subject to state lifetime registered sex offender registration, the CDA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the CDA must deny admission to the family [Notice PIH 2012-28].

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

CDA Policy

As a condition of receiving assistance, a family must agree to remove the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to visit or to stay as a guest in the public housing unit.

After admission to the program, the family must present evidence of the former family member's current address upon CDA request.

Reasonable Accommodation [PH Occ GB, pp. 58-60]

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

CDA Policy

If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of admission, the CDA will determine whether the behavior is related to the disability. If so, the CDA will determine whether alternative measures are appropriate as a

reasonable accommodation. The CDA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial of admission. See Chapter 2 for a discussion of reasonable accommodation.

3-III.~~F~~G. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

The Violence against Women Act of 2013 (VAWA) and the HUD regulation at 24 CFR 5.2005(b) prohibit CDAs from denying admission to an otherwise qualified applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

- Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD's recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

Definitions of key terms used in VAWA are provided in section 16-VII of this ACOP, where general VAWA requirements and policies pertaining to notification, documentation, and confidentiality are also located.

Notification

VAWA requires PHA's to provide~~2013 expanded notification requirements to include the obligation for CDAs to provide~~ applicants who are denied assistance with a ~~notice of~~ VAWA Notice of Occupancy Rights (form HUD-5380) and a domestic violence certifications form (HUD-5382) at the time the application is denied.~~rights and the form HUD-5382 at the time the applicant is denied.~~

CDA Policy

The CDA acknowledges that a victim of domestic violence, dating violence, sexual assault, or stalking may have an unfavorable history (e.g., a poor credit history, a record of previous damage to an apartment, a prior arrest record) that would warrant denial under the CDA's policies. Therefore, if the CDA makes a determination to deny admission to an applicant family, the CDA will include in its notice of denial information about the protection against denial provided by VAWA in accordance with section 16-VII.C of this ACOP, a notice of VAWA rights, and a copy of the form HUD-5382. The CDA will request in writing that an applicant wishing to claim this protection notify the CDA within 10 business days.

Documentation

Victim Documentation [24 CFR 5.2007]

CDA Policy

If an applicant claims the protection against denial of admission that VAWA provides to victims of domestic violence, dating violence, sexual assault, or stalking, the CDA will request in writing that the applicant provide documentation supporting the claim in accordance with section 16-VII.D of this ACOP.

Perpetrator Documentation

CDA Policy

If the perpetrator of the abuse is a member of the applicant family, the applicant must provide additional documentation consisting of one of the following:

A signed statement (1) requesting that the perpetrator be removed from the application and (2) certifying that the perpetrator will not be permitted to visit or to stay as a guest in the public housing unit

Documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a

domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to his or her belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest tothe documentation.

3-III.HG. NOTICE OF ELIGIBILITY OR DENIAL

The CDA will notify an applicant family of its final determination of eligibility in accordance with the policies in Section 4-III.E.

If a PHACDA uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before the CDA can move to deny the application. In addition, a copy of the record must be provided to the subject of the record [24 CFR 5.903(f) and 5.905(d)].

CDA Policy

If, based on a criminal record or sex offender registration information an applicant family appears to be ineligible, the CDA will notify the family in writing of the proposed denial and provide a copy of the record to the applicant and to the subject of the record. The family will be given 5 business days to dispute the accuracy and relevance of the information. If the family does not contact the CDA to dispute the information within that 5 day period, the CDA will proceed with issuing the notice of denial of admission. A family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the informal hearing process.

Notice requirements related to denying admission to noncitizens are contained in Section 3-II.B.

Notice policies related to denying admission to applicants who may be victims of domestic violence, dating violence, sexual assault, or stalking or human trafficking are contained in Section 3-III.F.

EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

Person with Disabilities [24 CFR 5.403]

The term *person with disabilities* means a person who has any of the following types of conditions.

- Has a disability, as defined in 42 U.S.C. Section 423(d)(1)(A), which reads:

  Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months

  In the case of an individual who has attained the age of 55 and is blind (within the meaning of "blindness" as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.

- Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C.15002(8)], which defines developmental disability in functional terms as follows:

  (A) IN GENERAL – The term *developmental disability* means a severe, chronic disability of an individual that-

  (i) is attributable to a mental or physical impairment or combination of mental and physical impairments;

  (ii) is manifested before the individual attains age 22;

  (iii) is likely to continue indefinitely;

  (iv) results in substantial functional limitations in 3 or more of the following areas of major life activity: (I) self-care, (II) receptive and expressive language, (III) learning, (IV) mobility, (V) self-direction, (VI) capacity for independent living, (VII) economic self-sufficiency; and

  (v) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

  (B) INFANTS AND YOUNG CHILDREN – An individual from birth to age 9, inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting 3 or more of the criteria described in clauses (i) through (v) of subparagraph (A) if the individual, without services and supports, has a high probability of meeting those criteria later in life.

- Has a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration; substantially impedes his or her ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

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

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

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

Individual with Handicaps [24 CFR 8.3]

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

(1) Physical or mental impairment includes:

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

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

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

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

(4) Is regarded as having an impairment means:

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

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

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

Chapter 4

APPLICATIONS, WAITING LIST AND TENANT SELECTION

INTRODUCTION

When a family wishes to reside in public housing, the family must submit an application that provides the CDA with the information needed to determine the family's eligibility. HUD requires the CDA to place all eligible families that apply for public housing on a waiting list. When a unit becomes available, the CDA must select families from the waiting list in accordance with HUD requirements and CDA policies as stated in its Admissions and Continued Occupancy Policy (ACOP) and its annual plan.

The CDA is required to adopt a clear approach to accepting applications, placing families on the waiting list, and selecting families from the waiting list, and must follow this approach consistently. The actual order in which families are selected from the waiting list can be affected if a family has certain characteristics designated by HUD or the CDA to receive preferential treatment.

HUD regulations require that the CDA comply with all equal opportunity requirements and it must affirmatively further fair housing goals in the administration of the program [24 CFR 960.103, PH Occ GB p. 13]. Adherence to the selection policies described in this chapter ensures that the CDA will be in compliance with all relevant fair housing requirements, as described in Chapter 2.

This chapter describes HUD and CDA policies for accepting applications, managing the waiting list and selecting families from the waiting list. The CDAs policies for assigning unit size and making unit offers are contained in Chapter 5. Together, Chapters 4 and 5 of the ACOP comprise the CDA's Tenant Selection and Assignment Plan (TSAP).

The policies outlined in this chapter are organized into three sections, as follows:

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

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

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

PART I: THE APPLICATION PROCESS

4-I.A. OVERVIEW

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

4-I.B. APPLYING FOR ASSISTANCE

Any family that wishes to reside in public housing must apply for admission to the program [24 CFR 1.4(b)(2)(ii), 24 CFR 960.202(a)(2)(iv), and PH Occ GB, p. 68]. HUD permits the CDA to determine the format and content of its applications, as well how such applications will be made available to interested families and how applications will be accepted by the CDA. However, the CDA must include Form HUD-92006, Supplement to Application for Federally Assisted Housing, as part of the CDA's application [Notice PIH 2009-36].

CDA Policy

A two-step process will be used when it is expected that a family will not be selected from the waiting list for at least 90 days from the date of application. Under the two-step application process, the CDA initially will require families to provide only the information needed to make an initial assessment of the family's eligibility, and to determine the family's placement on the waiting list. The family will be required to provide all of the information necessary to establish family eligibility and the amount of rent the family will pay when the family is selected from the waiting list.

Families may obtain and complete application forms at the CDA's office during normal business hours. If an application is incomplete the CDA will notify the applicant of the additional information required.

Applications for Colleen Loney Manor may be obtained via mail or in person.

Reasonable Accommodations may be granted on a case-by-case basis.

4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

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

Disabled Populations [24 CFR 8; PH Occ GB, p. 68]

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

Limited English Proficiency

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

4-I.D. PLACEMENT ON THE WAITING LIST

The CDA must review each completed application received and make a preliminary assessment of the family's eligibility. Applicants for whom the waiting list is open must be placed on the waiting list unless the CDA determines the family to be ineligible. Where the family is determined to be ineligible, the CDA must notify the family in writing [24 CFR 960.208(a); PH Occ GB, p. 41].

No applicant has a right or entitlement to be listed on the waiting list, or to any particular position on the waiting list.

Ineligible for Placement on the Waiting List

CDA Policy

If the CDA determines from the information provided that a family is ineligible, the family will not be placed on the waiting list. When a family is determined to be ineligible, the CDA will send written notification of the ineligibility determination within 30 business days of the receipt of the completed application. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal hearing and explain the process for doing so (See Chapter 14).

Eligible for Placement on the Waiting List

CDA Policy

The CDA will send written notification of the preliminary eligibility determination within 30 business days of receiving a completed application. If applicable, the notice will also indicate the waiting list preference(s) for which the family appears to qualify.

For apparently eligible families that are placed on the waiting list, the notice will indicate the family's approximate length of time that the family can expect to wait before being selected from the waiting list. If applicable, it also will indicate the waiting list preference(s) for which the family appears to qualify.

Applicants will be placed on the waiting list according to CDA preference(s) and the date and time their complete application is received by the CDA.

The CDA will assign families on the waiting list according to the bedroom size for which a family qualifies as established in its occupancy standards (see Chapter 5). Families may request to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines (as long as the unit is not overcrowded according to CDA standards and local codes). However, in these cases, the family must agree not to request a transfer for two years after admission, unless they have a change in family size or composition.

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

PART II: MANAGING THE WAITING LIST

4-II.A. OVERVIEW

The CDA must have policies regarding the type of waiting list it will utilize as well as how the waiting list will be organized and managed. This includes policies on notifying the public on the opening and closing of the waiting list to new applicants, updating family information, purging the list of families that are no longer interested in or eligible for public housing, and conducting outreach to ensure a sufficient number of applicants.

In addition, HUD imposes requirements on how the CDA may structure its waiting list and how families must be treated if they apply for public housing at a CDA that administers more than one assisted housing program.

4-II.B. ORGANIZATION OF THE WAITING LIST

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

CDA Policy

The waiting list for Scattered Site Public Housing will contain the following information for each applicant listed.

- Name and social security number of head of household
- Unit size required (number of family members)
- Amount of annual income
- Accessibility requirement, if any
- Date and time of application or application number
- Household type (family, elderly, disabled)
- Admission preference, if any
- Race and ethnicity of the head of household
- The specific region(s) chosen by applicant (5 available)

The CDA will maintain two waiting list systems, with separate waiting lists for each of the following sites within the CDA's public housing stock:

- Colleen Loney Manor
- Scattered Site The CDA will not merge the public housing waiting list with the waiting list for any other program the CDA operates.

4-II.C. OPENING AND CLOSING THE WAITING LIST

Closing the Waiting List

CDA Policy

The CDA may close the waiting list when the estimated waiting period for housing applicants on the list reaches 36 months for the most current applicants. Where the CDA has particular preferences or other criteria that require a specific category of family, the CDA may elect to continue to accept applications from these applicants while closing the waiting list to others.

Reopening the Waiting List

CDA Policy

The CDA will announce the reopening of the waiting list at least 10 business days prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice. The notice will specify where, when, and how applications are to be received.

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

- Diverse publication and CDA website

4-II.D. FAMILY OUTREACH [24 CFR 903.2(d); 24 CFR 903.7(a) and (b)]

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

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

CDA outreach efforts must comply with fair housing requirements. This includes:

- Analyzing the housing market area and the populations currently being served to identify underserved populations
- Ensuring that outreach efforts are targeted to media outlets that reach eligible populations that are underrepresented in the program
- Avoiding outreach efforts that prefer or exclude people who are members of a protected class

CDA outreach efforts must be designed to inform qualified families about the availability of units under the program. These efforts may include, as needed, any of the following activities:

- Submitting press releases to local newspapers, including minority newspapers
- Developing informational materials and flyers to distribute to other agencies
- Providing application forms to other public and private agencies that serve the low income population

- Developing partnerships with other organizations that serve similar populations, including agencies that provide services for persons with disabilities

CDA Policy

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

4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

CDA Policy

While the family is on the waiting list, the family must inform the CDA, within 10 business days, of changes in family size or composition, preference status, or contact information, including current residence, mailing address, and phone number. The changes must be submitted in writing.

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

4-II.F. UPDATING THE WAITING LIST

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

Purging the Waiting List

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

CDA Policy

The waiting list will be updated as needed to ensure that all applicant information is current and timely.

To update the waiting list, the CDA will send a notice via email to each applicant on the waiting list to determine whether the applicant continues to be interested in the program. This notice will be sent to the last email address that the CDA has on record for the applicant.

If the applicant fails to respond by the deadline provided, the applicant will be removed from the waiting list without further notice.

If the notice is returned as undeliverable, the applicant will be removed from the waiting without further notice.

- ~~If the applicant contacts the CDA within 30 days of removal, the applicant will be placed back on the waiting list.~~

When an applicant is removed from the waiting list during the update process for failure to

respond, no informal hearing will be offered. Such failures to act on the part of the applicant prevent the CDA from making an eligibility determination; therefore no informal hearing is required.

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

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

If an applicant is removed from the waiting list because the CDA has determined the applicant is not eligible for admission, a notice will be sent to the applicants email address of record. The notice will state the reasons the applicant was removed from the waiting list and will inform the applicant how to request an informal hearing regarding the CDA's decision (see Chapter 14) [24 CFR 960.208(a)].

Removal from the Waiting List

CDA Policy

If at any time an applicant is determined ineligible, they will be removed from the waiting list.

If at any time an applicant requests that their name be removed from the waiting list, the applicant will be removed from the waiting list.

If an applicant is removed from the waiting list because the CDA has determined the family is not eligible for assistance or has failed to comply with a request for information, as it relates to preference or other eligibility components, a notice will be sent to the applicant's last known email address on file.

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

PART III: TENANT SELECTION

4-III.A. OVERVIEW

The CDA must establish tenant selection policies for families being admitted to public housing [24 CFR 960.201(a)]. The CDA must not require any specific income or racial quotas for any developments [24 CFR 903.2(d)]. The CDA must not assign persons to a particular section of a community or to a development or building based on race, color, religion, sex, disability, familial status or national origin for purposes of segregating populations [24 CFR 1.4(b)(1)(iii) and 24 CFR 903.2(d)(1)].

The order in which families will be selected from the waiting list depends on the selection method chosen by the CDA and is impacted in part by any selection preferences that the family qualifies for. The availability of units also may affect the order in which families are selected from the waiting list.

The CDA must maintain a clear record of all information required to verify that the family is selected from the waiting list according to the CDA's selection policies [24 CFR 960.206(e)(2)].

The CDA's policies must be posted any place where the CDA receives applications. The CDA must provide a copy of its tenant selection policies upon request to any applicant or tenant. The CDA may charge the family for providing a copy of its tenant selection policies [24 CFR 960.202(c)(2)].

CDA Policy

When an applicant or resident family requests a copy of the CDA's resident selection policies, the CDA will provide copies to them for $.25 per page.

4-III.B. SELECTION METHOD

CDAs must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that the CDA will use.

Local Preferences [24 CFR 960.206]

CDAs are permitted to establish local preferences and to give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits the CDA to establish other local preferences, at its discretion. Any local preferences established must be consistent with the CDA plan and the consolidated plan, and must be based on local housing needs and priorities that can be documented by generally accepted data sources [24 CFR 960.206(a)].

CDA Policy

The CDA will use the following local preferences:

The CDA, in selecting eligible applicants to fill vacancies, shall give consideration to the following factors in the order shown:

Preference Factors in the Selection of Residents for Public Housing

CDA Policy

1) Applicants who are currently CDA Family Partnership, Senior Housing, or Lincoln Place residents in good standing whom are eligible, and the CDA has determined a transfer to a Public Housing unit is warranted, for reasons of hardship, disability, family size change, or other business reasons which cannot be readily accommodated under the Family Partnership, Senior Housing, or Youth Supportive Housing program as determined by the CDA's Director of Property Management

2) Applicants who are Dakota County residents and who are displaced by a disaster such as fire, flood or tornado.

3) Applicants who are Dakota County residents who have total annual income equal to or greater than 30% of area median income adjusted for family size

4) Applicants who are Dakota County residents who have a total annual income equal to or less than 30% of area median income adjusted for family size

5) Applicants who are non-Dakota County residents

Preference Factors in the Selection of Residents for the Colleen Loney Manor.

1) Applicants who are currently CDA Family Partnership, Senior Housing, or Lincoln Place residents in good standing whom are eligible, and the CDA has determined a transfer to a Public Housing unit is warranted, for reasons of hardship, disability, family size change, or other business reasons which cannot be readily accommodated under the Family Partnership, Senior Housing, or Youth Supportive Housing program as determined by the CDA's Director of Property Management

2) Applicants who are Dakota County residents and who are displaced by a disaster such as fire, flood or tornado.

3) Elderly and/or Disabled Applicants who have Community Roots who have a total annual income equal to or greater than 30% of the area median income adjusted for family size.

4) Elderly and/or Disabled Applicants who have Community Roots and who have a total annual income equal to or less than 30% of the area median income adjusted for family size.

5) All other Elderly and/or Disabled Applicants.

6) Near-Elderly Applicants who have Community Roots who have a total annual income equal to or greater than 30% of the area median income adjusted for family size.

7) Near-Elderly Applicants who have Community Roots and who have a total annual income equal to or less than 30% of the area median income adjusted for family size.

8) All other Near-Elderly Applicants.

9) Applicants who have Community Roots who have a total annual income equal to or greater than 30% of the area median income adjusted for family size.

10) Applicants who do not have Community Roots and who have a total annual income equal to or less than 30% of the area median income adjusted for family size.

11) All other Applicants.

Income Targeting Requirement [24 CFR 960.202(b)]

HUD requires that extremely low-income (ELI) families make up at least 40 percent of the families admitted to public housing during the CDA's fiscal year. ELI families are those with annual incomes at or below the federal poverty level or 30 percent of the area median income, whichever number is higher [*Federal Register* notice 6/25/14]. To ensure this requirement is met, the CDA may skip non-ELI families on the waiting list in order to select an ELI family.

If a CDA also operates a housing choice voucher (HCV) program, admissions of extremely low-income families to the CDA's HCV program during a CDA fiscal year that exceed the 75 percent

minimum target requirement for the voucher program, shall be credited against the CDA's basic targeting requirement in the public housing program for the same fiscal year. However, under these circumstances the fiscal year credit to the public housing program must not exceed the lower of: (1) ten percent of public housing waiting list admissions during the CDA fiscal year; (2) ten percent of waiting list admissions to the CDA's housing choice voucher program during the CDA fiscal year; or (3) the number of qualifying low-income families who commence occupancy during the fiscal year of CDA public housing units located in census tracts with a poverty rate of 30 percent or more. For this purpose, qualifying low-income family means a low-income family other than an extremely low-income family.

CDA Policy

The CDA will monitor progress in meeting the ELI requirement throughout the fiscal year. ELI families will be selected ahead of other eligible families on an as-needed basis to ensure that the income targeting requirement is met.

Mixed Population Developments [24 CFR 960.407]

A mixed population development is a public housing development or portion of a development that was reserved for elderly families and disabled families at its inception (and has retained that character) or the CDA at some point after its inception obtained HUD approval to give preference in tenant selection for all units in the development (or portion of a development) to elderly and disabled families [24 CFR 960.102]. Elderly family means a family whose head, spouse, cohead, or sole member is a person who is at least 62 years of age. Disabled family means a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR 5.403]. The CDA must give elderly and disabled families equal preference in selecting these families for admission to mixed population developments. The CDA may not establish a limit on the number of elderly or disabled families that may occupy a mixed population development. In selecting elderly and disabled families to fill these units, the CDA must first offer the units that have accessibility features for families that include a person with a disability and require the accessibility features of such units. The CDA may not discriminate against elderly or disabled families that include children (Fair Housing Amendments Act of 1988).

Units Designated for Elderly or Disabled Families [24 CFR 945]

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

Among the designated developments, the CDA must also apply any preferences that it has established. If there are not enough elderly families to occupy the units in a designated elderly development, the CDA may allow near-elderly families to occupy the units [24 CFR 945.303(c)(1)]. Near-elderly family means a family whose head, spouse, or cohead is at least 50 years old, but is less than 62 [24 CFR 5.403].

If there are an insufficient number of elderly families and near-elderly families for the units in a development designated for elderly families, the CDA must make available to all other families any unit that is ready for re-rental and has been vacant for more than 60 consecutive days [24 CFR 945.303(c)(2)].

The decision of any disabled family or elderly family not to occupy or accept occupancy in designated housing shall not have an adverse affect on their admission or continued occupancy in

public housing or their position on or placement on the waiting list. However, this protection does not apply to any family who refuses to occupy or accept occupancy in designated housing because of the race, color, religion, sex, disability, familial status, or national origin of the occupants of the designated housing or the surrounding area [24 CFR 945.303(d)(1) and (2)].

This protection does apply to an elderly family or disabled family that declines to accept occupancy, respectively, in a designated project for elderly families or for disabled families, and requests occupancy in a general occupancy project or in a mixed population project [24 CFR 945.303(d)(3)].

Order of Selection [24 CFR 960.206(e)]

The CDA system of preferences may select families either according to the date and time of application or by a random selection process.

CDA Policy

Families will be selected from the waiting list based on preference. Among applicants with the same preference, families will be selected on a first-come, first-served basis according to the date and time their complete application is received by the CDA.

When selecting applicants from the waiting list, the CDA will match the characteristics of the available unit (unit size, accessibility features, unit type) to the applicants on the waiting lists. The CDA will offer the unit to the highest ranking applicant who qualifies for that unit size or type, or that requires the accessibility features.

By matching unit and family characteristics, it is possible that families who are lower on the waiting list may receive an offer of housing ahead of families with an earlier date and time of application or higher preference status.

4-III.C. NOTIFICATION OF SELECTION

When the family has been selected from the waiting list, the CDA must notify the family [24 CFR 960.208].

CDA Policy

The CDA will notify the family by first class mail when it is selected from the waiting list.

The notice will inform the family of the following:

- Date, time, and location of the scheduled application interview, including any procedures for rescheduling the interview
- Who is required to attend the interview
- Documents that must be provided at the interview to document the legal identity of household members, including information about what constitutes acceptable documentation
- Documents that must be provided at the interview to document eligibility for a preference, if applicable
- Other documents and information that should be brought to the interview

If a notification letter is returned to the CDA with no forwarding address, the family will be removed from the waiting list without further notice. Such failure to act on the part of the

applicant prevents the CDA from making an eligibility determination; therefore, no informal hearing will be offered.

4-III.D. THE APPLICATION INTERVIEW

HUD recommends that the CDA obtain the information and documentation needed to make an eligibility determination through a private interview. Being invited to attend an interview does not constitute admission to the program.

Assistance cannot be provided to the family until all SSN documentation requirements are met. However, if the CDA determines that an applicant family is otherwise eligible to participate in the program, the family may retain its place on the waiting list for a period of time determined by the CDA [Notice PIH 2012-10].

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

CDA Policy

Families selected from the waiting list are required to participate in an eligibility interview.

All adult family members are required to attend the interview.

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

Pending disclosure and documentation of social security numbers, the CDA will allow the family to retain its place on the waiting list for ***90 days***. If not all household members have disclosed their SSNs at the next time a unit becomes available, the CDA will offer a unit to the next eligible applicant family on the waiting list.

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

The family must provide the information necessary to establish the family's eligibility, including suitability, and determine the appropriate amount of rent the family will pay. The family must also complete required forms, provide required signatures, and submit required documentation. If any materials are missing, the CDA will provide the family with a written list of items that must be submitted.

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

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

Interviews will be conducted in English. For limited English proficient (LEP) applicants, the CDA will provide translation services upon request.

If the family is unable to attend a scheduled interview, the family should contact the CDA in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview, the CDA will send another notification letter with a new interview appointment time. Applicants who fail to attend two scheduled interviews without CDA approval will have their applications made inactive based on the family's failure to supply information needed to determine eligibility. The second appointment letter will state that failure to appear for the appointment without a request to reschedule will be interpreted to mean that the family is no longer interested and their application will be made inactive. Such failure to act on the part of the applicant prevents the CDA from making an eligibility determination, therefore the CDA will not offer an informal hearing.

4-III.E. FINAL ELIGIBILITY DETERMINATION [24 CFR 960.208]

The CDA must verify all information provided by the family (see Chapter 7). Based on verified information related to the eligibility requirements, including CDA suitability standards, the CDA must make a final determination of eligibility (see Chapter 3).

When a determination is made that a family is eligible and satisfies all requirements for admission, including tenant selection criteria, the applicant must be notified of the approximate date of occupancy insofar as that date can be reasonably determined [24 CFR 960.208(b)].

CDA Policy

The CDA will notify a family in writing of their eligibility within 30 days of the determination and will provide the approximate date of occupancy insofar as that date can be reasonably determined.

The CDA must promptly notify any family determined to be ineligible for admission of the basis for such determination, and must provide the applicant upon request, within a reasonable time after the determination is made, with an opportunity for an informal hearing on such determination [24 CFR 960.208(a)].

CDA Policy

If the CDA determines that the family is ineligible, the CDA will send written notification of the ineligibility determination within 30 days of the determination. The notice will specify the reasons for ineligibility and will inform the family of its right to request an informal hearing (see Chapter 14).

If the CDA uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before the CDA can move to deny the application. See Section 3-III.G for the CDA's policy regarding such circumstances.

Upon making an eligibility determination, the CDA must provide the family a notice of VAWA rights as well as the HUD VAWA self-certification form (form HUD-5382) in accordance with the Violence against Women Act of 2013, and as outlined in 16-VII.C. The notice and self-certification form must accompany the written notification of eligibility determination. This notice must be provided in both of the following instances: (1) when a family is notified of its eligibility; or (2) when a family is notified of its ineligibility.

Chapter 5

OCCUPANCY STANDARDS AND UNIT OFFERS

INTRODUCTION

The CDA must establish policies governing occupancy of dwelling units and offering dwelling units to qualified families.

This chapter contains policies for assigning unit size and making unit offers. The CDA's waiting list and selection policies are contained in Chapter 4. Together, Chapters 4 and 5 of the ACOP comprise the CDA's Tenant Selection and Assignment Plan (TSAP).

Policies in this chapter are organized in two parts.

Part I: Occupancy Standards. This part contains the CDA's standards for determining the appropriate unit size for families of different sizes, compositions, and types.

Part II: Unit Offers. This part contains the CDA's policies for making unit offers, and describes actions to be taken when unit offers are refused.

PART I: OCCUPANCY STANDARDS

5-I.A. OVERVIEW

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

5-I.B. DETERMINING UNIT SIZE

In selecting a family to occupy a particular unit, the CDA may match characteristics of the family with the type of unit available, for example, number of bedrooms [24 CFR 960.206(c)].

HUD does not specify the number of persons who may live in public housing units of various sizes. CDAs are permitted to develop appropriate occupancy standards as long as the standards do not have the effect of discriminating against families with children [PH Occ GB, p. 62].

Although the CDA does determine the size of unit the family qualifies for under the occupancy standards, the CDA does not determine who shares a bedroom/sleeping room.

The CDA's occupancy standards for determining unit size must be applied in a manner consistent with fair housing requirements.

CDA Policy

The CDA has established occupancy standards for individual developments as specified below:

The following standards will determine the number of bedrooms required to accommodate a family of a given size, except that such standards may be waived when a vacancy problem exists

and it is necessary to achieve or maintain full occupancy, by temporarily assigning a family to a larger size unit that is required. Such family should be transferred to the proper size unit as soon as one become available.

In no event should waiver action be taken to assign smaller units to families than established in the following maximums:

BEDROOM SIZE	MINIMUM NUMBER OF PERSONS	MAXIMUM NUMBER OF PERSONS
1	1	2
2	2	4
3	3	6
4	5	8
5	7	10

The relationship, age, sex, health, or disability of the members of the household shall be taken into consideration in assigning residents within the above ranges and may warrant a different unit size assignment than would otherwise result from the strict application of these criteria.

- Persons of the opposite sex (other than spouses and children under age 5) will not be required to share a bedroom
- Persons of different generations will not be required to share a bedroom
- Live-in aides will be allocated a separate bedroom. No additional bedrooms will be provided for the live-in aide's family
- Single person families will be allocated one bedroom
- Foster children will be included in determining unit size

5-I.C. EXCEPTIONS TO OCCUPANCY STANDARDS

Types of Exceptions

CDA Policy

The CDA will consider granting exceptions to the occupancy standards at the family's request if the CDA determines the exception is justified by the relationship, age, sex, health or disability of family members, or other personal circumstances.

- For example, an exception may be granted if a larger bedroom size is needed for medical equipment due to its size and/or function, or as a reasonable accommodation for a person with disabilities. An exception may also be granted for a smaller bedroom size in cases where the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides (according to the chart in Section 5- I.B) and the family does not want to transfer to a larger size unit.

When evaluating exception requests the CDA will consider the size and configuration of the unit. In no case will the CDA grant an exception that is in violation of local housing or occupancy codes, regulations or laws.

Requests from applicants to be placed on the waiting list for a unit size smaller than designated by the occupancy standards will be approved as long as the unit is not overcrowded according to

local code, and the family agrees not to request a transfer for a period of two years from the date of admission, unless they have a subsequent change in family size or composition.

To prevent vacancies, the CDA may provide an applicant family with a larger unit than the occupancy standards permit. However, in these cases the family must agree to move to a suitable, smaller unit when another family qualifies for the larger unit and there is an appropriate size unit available for the family to transfer to.

Processing of Exceptions

CDA Policy

All requests for exceptions to the occupancy standards must be submitted in writing.

In the case of a request for exception as a reasonable accommodation, the CDA will encourage the resident to make the request in writing using a reasonable accommodation request form.

Requests for a larger size unit must explain the need or justification for the larger size unit, and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source, unless the disability and the disability-related request for accommodation is readily apparent or otherwise known.

The CDA will notify the family of its decision within 30 days of receiving the family's request.

PART II: UNIT OFFERS

24 CFR 1.4(b)(2)(ii); 24 CFR 960.208

5-II.A. OVERVIEW

The CDA must assign eligible applicants to dwelling units in accordance with a plan that is consistent with civil rights and nondiscrimination laws.

In filling an actual or expected vacancy, the CDA must offer the dwelling unit to an applicant in the appropriate offer sequence. The CDA will offer the unit until it is accepted. This section describes the CDA's policies with regard to the number of unit offers that will be made to applicants selected from the waiting list. This section also describes the CDA's policies for offering units with accessibility features.

CDA Policy

Each applicant will receive one offer.

Unless the applicant has good cause for refusing the offer, the applicant should accept it or be dropped to the bottom of the waiting list.

Acceptable reasons for refusal include, but are not limited to the following:

- Applicant unable to move due to health reasons.
- Vacancy offered is in a different school district and applicant can verify necessity toremain in same district; i.e. special education needs.
- Inaccessibility to daycare (applicant has to travel more than 15 additional miles (eachway) to daycare, or if transportation is a proven hardship.
- Inaccessibility to employment (applicant has to travel more than 15 additional miles(each way) to employment, or it transportation is a proven hardship.

5-II.B. NUMBER OF OFFERS

CDA Policy

The CDA has a "three offer plan" for offering units to applicants. Under this plan, an applicant will be offered the appropriate size unit within the region(s) the applicant noted on application. After three refusals, the applicant will be removed from all Public Housing waiting lists.

5-II.C. TIME LIMIT FOR UNIT OFFER ACCEPTANCE OR REFUSAL

CDA Policy

Applicants must accept or refuse a unit offer within 2 business days of the date of the unit offer.

5-II.D. REFUSALS OF UNIT OFFERS

Good Cause for Unit Refusal

An elderly or disabled family may decline an offer for designated housing. Such a refusal must not adversely affect the family's position on or placement on the public housing waiting list [24 CFR 945.303(d)].

CDA Policy

Applicants may refuse to accept a unit offer for "good cause." *Good cause* includes situations in which an applicant is willing to move but is unable to do so at the time of the unit offer, or the applicant demonstrates that acceptance of the offer would cause undue hardship not related to

considerations of the applicant's race, color, national origin, etc. [PH Occ GB, p. 104]. Examples of good cause for refusal of a unit offer include, but are not limited to, the following:

- The family demonstrates to the CDA's satisfaction that accepting the unit offer will require an adult household member to quit a job, drop out of an educational institution orjob training program, or take a child out of day care or an educational program for children with disabilities.
- The family demonstrates to the CDA's satisfaction that accepting the offer will place a family member's life, health, or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders; other court orders; risk assessments related to witness protection from a law enforcement agency; or documentation of domestic violence, dating violence, sexual assault, or stalking in accordance with section 16-VII.D of this ACOP. Reasons offered must be specific to the family.
- A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final application) ~~orlive~~or live-in aide necessary to the care of the principal household member.
- The unit is inappropriate for the applicant's disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a 60-day notice to move.
- The unit has lead-based paint and the family includes children under the age of six.

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

Refusals due to location alone do not qualify for this good cause exemption.

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

Unit Refusal without Good Cause

CDA Policy

When an applicant rejects the final unit offer without good cause, the CDA will remove the applicant's name from the waiting list.

The applicant may reapply for assistance if the waiting list is open. If the waiting list is not open, the applicant must wait to reapply until the CDA opens the waiting list.

5-II.E. ACCESSIBLE UNITS

CDA Policy

Families requiring an accessible unit may be over-housed in such a unit if there are no resident or applicant families of the appropriate size who also require the accessible features of the unit.

When there are no resident or applicant families requiring the accessible features of the unit, including families who would be over-housed, the CDA will offer the unit to a non-disabled applicant.

When offering an accessible unit to a non-disabled applicant, the CDA will require the applicant to agree to move to an available non-accessible unit within 60 days when either a current resident or an applicant needs the features of the unit and there is another unit available for the non-

disabled family. This requirement will be a provision of the lease agreement.

Chapter 6

INCOME AND RENT DETERMINATIONS

[24 CFR Part 5, Subparts E and F; 24 CFR 960, Subpart C]

INTRODUCTION

This chapter is applicable upon the PHA's HOTMA 102/104 compliance date.

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

Part I: Annual Income. HUD regulations specify the sources of income to include and exclude to arrive at a family's annual income. These requirements and CDA 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 CDA to subtract from annual income any of five mandatory deductions for which a family qualifies. These requirements and CDA policies for calculating adjusted income are found in Part II.

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

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(c)].~~

~~(4)~~(1) ~~Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.~~

~~In addition to this general definition, HUD regulations establish policies for treating specific types of income and assets. The full texts of those portions of the regulations are provided in exhibits at the end of this chapter as follows:~~

- ~~Annual Income Inclusions (Exhibit 6-1)~~
- ~~Annual Income Exclusions (Exhibit 6-2)~~
- ~~Treatment of Family Assets (Exhibit 6-3)~~
- ~~Earned Income Disallowance (Exhibit 6-4)~~
- ~~The Effect of Welfare Benefit Reduction (Exhibit 6-5)~~

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

Annual income includes:

- All amounts, not specifically excluded in 24 CFR 5.609(b);
- All amounts received from all sources (other than those specifically excluded in 24 CFR 5.609(b)) by each member of the family who is 18 years of age or older or is the head of household or spouse;
- Unearned income (other than those sources specifically excluded in 24 CFR 5.609(b)) by or on behalf of each dependent who is under 18 years of age; and
- Imputed returns of an asset based on the current passbook savings rate, as determined by HUD, when the value of net family assets exceeds the HUD-published threshold amount (adjusted annually and published in HUD's Inflation-Adjusted Values tables) 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. For example, a family's child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders. However, when a family member's wages or benefits are garnished, levied, or withheld to pay restitution, child support, tax debt, student loan debt, or other applicable debts, the PHA must use the gross amount of the income, prior to the reduction, to determine a family's annual income [Notice PIH 2023-27].

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

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

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

Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. Verification requirements for annual income are discussed in Chapter 7.

6-I.B. HOUSEHOLD COMPOSITION AND INCOME

~~Income received by all family members must be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in family composition. 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 is excluded [24 CFR 5.609(c)(5)].~~
~~Foster child or foster adult~~	~~Income from all sources is excluded [24 CFR 5.609(a)(1)].~~
~~Head, spouse, or cohead~~ ~~Other adult family members~~	~~All sources of income not specifically excluded by the regulations are included.~~
~~Children under 18 years of age~~	~~Employment income is excluded [24 CFR 5.609(c)(1)].~~ ~~All other sources of income, except those specifically excluded by the regulations, are included.~~
~~Full-time students 18 years of age or older (not head, spouse, or cohead)~~	~~Employment income above $480/year is excluded [24 CFR 5.609(c)(11)].~~ ~~All other sources of income, except those specifically excluded by the regulations, are included.~~

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 9. The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.

Summary of Income Included and Excluded by Person	
Live-in aides	Income from all sources (both earned and unearned) is excluded [24 CFR 5.609(b)(8)].
Foster child or foster adult	Income from all sources (both earned and unearned) is excluded [24 CFR 5.609(b)(8)].
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)].
Minors	Earned income of children under 18 years of age is excluded [24 CFR 5.609(b)(3)]. All sources of unearned income, except those specifically excluded by the regulations, are included.
Full-time students 18 years of age or older (not head, spouse, or cohead)	Earned income in excess of the dependent deduction is excluded [24 CFR 5.609(b)(14)]. All sources of unearned income, except those specifically excluded by the regulations, are included.

Temporarily Absent Family Members

~~The income of family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit [HCV GB, p. 5-18].~~
The current regulations governing annual income do not specifically address temporarily absent family members. The regulations also do not define "temporarily" or "permanently" absent or specify a timeframe associated with a temporary versus a permanent absence.

CDA Policy

Unless specifically excluded by the regulations, the income of all family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit.

Generally, an individual who is or is expected to be absent from the assisted unit for 60 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally, an individual who is or is expected to be absent from the assisted unit for more than 60 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Students

CDA Policy

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to the CDA indicating that the student has established a separate household or the family declares that the student has established a separate household.

Absences Due to Placement in Foster Care

Children temporarily absent from the home as a result of placement in foster care (as confirmed by the state child welfare agency) are considered members of the family [24 CFR 5.403].

CDA Policy

If a child has been placed in foster care, the CDA will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.

Absent Head, Spouse, or Cohead

CDA Policy

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

~~Individuals~~ Family Members Confined for Medical Reasons

If a family member is confined to a nursing home or hospital on a permanent basis, PHAs may determine that that person is no longer a member of the assisted household, and the income of that person is not counted [New PH OCC GB, *Income Determinations,* p. 12].

CDA Policy

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

~~If there is a question about the status of a family member, the CDA will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.~~

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

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

Joint Custody of Children

CDA Policy

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or participant family 50 percent or more of the time.

When more than one applicant or assisted family (regardless of program) are claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the CDA will make the determination based on available documents such as court orders, an IRS income tax return showing which family has claimed the child for income tax purposes, school records, or other credible documentation.

Caretakers for a Child

CDA Policy

The approval of a caretaker is at the CDA's discretion and subject to the CDA's screening criteria. If neither a parent nor a designated guardian remains in a household, the CDA will take the following actions:

- If a responsible agency has determined that another adult is to be brought into the unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.
- If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases the CDA will extend the caretaker's status as an eligible visitor.
- At any time that custody or guardianship legally has been awarded to a caretaker, the lease will be transferred to the caretaker, as head of household.
- During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

6-I.C. ANTICIPATING ANNUAL INCOME

The CDA is required to count all income "anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date" [24 CFR 5.609(a)(2)]. Policies related to anticipating annual income are provided below.

Basis of Annual Income Projection

The CDA generally will use current circumstances to determine anticipated income for the coming 12-month period. HUD authorizes the CDA 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 CDA believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)]

CDAs 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 CDAs to use tenant-provided documents 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 CDA does not determine it is necessary to obtain additional third-party data.

CDA Policy

- When EIV is obtained and the family does not dispute the EIV employer data, the CDA will use current tenant-provided documents to project annual income. When the tenant- provided documents are pay stubs, the CDA will make every effort to obtain current andconsecutive pay stubs dated within the last 60 days.
- The CDA will obtain written and/or oral third-party verification in accordance with theverification 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 CDA determines additional information is needed.
  - In such cases, the CDA will review and analyze current data to anticipate annual income. In all cases, the family file will be documented with a clear record of thereason for the decision, and a clear audit trail will be left as to how the CDA annualized projected income.
  - When the CDA cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours,or suspected fraud), the CDA 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 clearrationale for the decision will be documented in the file. In all such cases the

- family may present information and documentation to the CDA to show why thehistoric pattern does not represent the family's anticipated income.

Known Changes in Income

CDA Policy

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

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

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

When resident-provided third-party documents are used to anticipate annual income, they will be dated within the last 90 days of the reexamination interview date.

Projecting Income

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

6-I.C. 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. Policies related to verifying income are found in Chapter 7.

CDA Policy

When the CDA 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 CDA 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 CDA 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 CDA annualized projected income.

Known Changes in Income

If the CDA verifies an upcoming increase or decrease in income at admission or interim reexamination, annual income will be 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/hour × 40 hours × 7 weeks) + ($8.25 × 40 hours × 45 weeks).

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases the CDA will calculate annual income using current circumstances and then, should the change in income require the CDA to conduct an interim reexamination, conduct an interim reexamination in accordance with CDA policy in Chapter 9.

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

At annual reexamination, except where the CDA uses a streamlined income determination, 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 CDA policies in Chapter 9 and HUD regulations, must be considered. If, however, there have been no changes to income, then the amount of income calculated for the previous 12-month period is the amount that will be used to determine the family's rent. Policies related to conducting annual reexaminations are located in Chapter 9.

6-I.D. EARNED INCOME

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

~~***Wages and Related Compensation [24 CFR 5.609(b)(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 is included in annual income.~~

~~**CDA Policy**~~

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

~~**Types of Earned Income Not Counted in Annual Income**~~

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

~~**CDA 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.~~

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

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

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

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

A *seasonal worker* is defined as an individual who is hired into a short-term position (e.g., for which the customary employment period for the position is six months or fewer) and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry [24 CFR 5.603(b)]. Some examples of seasonal work include employment limited to holidays or agricultural seasons. Seasonal work may include but is

not limited to employment as a lifeguard, ballpark vendor, or snowplow driver [Notice PIH 2023-27]. Income earned as a seasonal worker is not considered nonrecurring income and is therefore included in annual income unless otherwise excluded by regulation.

CDA Policy

The CDA 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 CDA will verify and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, the CDA will use the prior year amounts. In either case the family may provide, and the CDA 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 CDA will count only the amount estimated by the employer. The file will be documented appropriately.

Military Pay

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

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

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

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

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

A family member other than the head of household or spouse/cohead is considered a full-time student if they are attending school or vocational training on a full-time basis [24 CFR 5.603(b)]. Full-time status is defined by the educational or vocational institution the student is attending [New PH OCC GB, *Lease Requirements,* p. 5].

6-I.E. BUSINESS AND SELF-EMPLOYMENT INCOME [24 CFR 5.609(b)(28); Notice PIH 2023-27]

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

Expenditures for business expansion or amortization of capital indebtedness may 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."

CDA Policy

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

Independent Contractors

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

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

Business Expansion

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

CDA Policy

Business expansion is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate the business in additional locations. For example, purchase

of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.

Capital Indebtedness

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

CDA Policy

Capital indebtedness is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means the PHA will allow as a business expense interest, but not principal, paid on capital indebtedness.

Negative Business Income

If the net income from a business is negative, no business income will be included in annual income; a negative amount will not be used to offset other family income.

Withdrawal of Cash or Assets from a Business

HUD regulations require the PHA to include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family.

CDA Policy

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of an assisted family provided an up-front loan of $2,000 to help a business get started, the PHA will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.

Co-owned Businesses

PHA Policy

If a business is co-owned with someone outside the family, the family must document the share of the business it owns. If the family's share of the income is lower than its share of ownership, the family must document the reasons for the difference.

Assets Owned by a Business Entity

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

6-I.F. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9)]

The regulations distinguish between two categories of student financial assistance paid to both full-time and part-time students. The first category is any assistance to students under section 479B of the Higher Education Act of 1965 (Title IV of the HEA), which must be fully excluded from the family's annual income [24 CFR 5.609(b)(9)(i)].

Examples of assistance under title IV of the HEA include:

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

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

Actual covered costs are defined as the actual costs of:

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

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

- The Federal government;
- A state (including U.S. territories), tribal, or local government;
- A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);
- A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- An institution of higher education.

Student financial assistance, 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.

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

The formula for calculating student financial assistance 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.

CDA Policy

If the student does not receive any assistance under Title IV of the HEA but does receive assistance from another source, the CDA will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(ii). The CDA will then subtract the total amount of the student's financial assistance from the student's actual covered costs. The CDA 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 CDA 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. PERIODIC PAYMENTS [Notice PIH 2023-27]

Periodic payments are forms of income received on a regular basis.

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. 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. 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.

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). Unemployment income and other types of periodic payments are not considered nonrecurring income, unless explicitly excluded from income under 25 CFR 5.609(b), and thus they are included in 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. Any workers' compensation is always excluded from annual income, regardless of the frequency or length of the payments.

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

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

CDA Policy

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

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

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

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

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

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

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

Social Security Benefits [Notice PIH 2023-27]

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

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

CDA Policy

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. When the SSA overpays an individual, resulting in a withholding or deduction from their benefit amount until the overpayment is paid in full, the CDA must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount.

Alimony and 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 did not. As such, a family's child support or alimony income must be based on payments received, not the amounts the family is entitled to receive based on any court or agency order. A copy of a court order or other written payment agreement alone may not be sufficient verification of amounts received by a family.

CDA Policy

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

Family Claims No Payments Being Received: In order to verify that payments are not being made, the CDA will review child support payments over the last three months. If no payments have been made in the past three months and there are no lump sums, the CDA will not include alimony or child support in annual income.

Payments Being Received: If payments are being made regularly, the CDA 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 CDA will average all payments that have been made.

Lump Sum Payments: At new admission or interim recertification, if any lump sum payments were made in the past 12 months, the CDA 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 CDA 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 CDA 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.

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

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

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

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

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 such 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. However, the value of regular in-kind donations (such as the value of groceries) received by friends and family are included.
- 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. WELFARE ASSISTANCE

Overview

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

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

The CDA must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided as Exhibit 6-3. The requirements are summarized below. This rule applies only if a family was receiving assistance at the time the sanction was imposed.

Covered Families

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

Imputed Income

When a welfare agency imposes a sanction that reduces a family's welfare income because the family commits fraud or fails to comply with the agency's economic self-sufficiency program or work activities requirement, the PHA must include in annual income "imputed" welfare income. The CD
A must request that the welfare agency provide the reason for the reduction of benefits and the amount of the reduction of benefits. The imputed welfare income is the amount that the benefits were reduced as a result of the sanction.

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits, (2) if a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements, or (3) because a family member has not complied with other welfare agency requirements [24 CFR 5.615(b)(2)].

Offsets

The amount of the imputed welfare income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero [24 CFR 5.615(c)(4)].

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

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

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

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

6-I.L. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME [24 CFR 5.609(b); FR Notice 1/31/2024]

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

- Payments received for the care of foster children or foster adults or state or tribal kinship or guardianship care payments [24 CFR 5.609(b)(4)].
- Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation [24 CFR 5.609(b)(5)]. However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that are received in lieu of wages are included in annual income [Notice PIH 2023-27].
- Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member [24 CFR 5.609(b)(6)].
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled [24 CFR 5.609(b)(7)].
- Income and distributions from any Coverdell education savings account under Section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under Section 529 of such Code [24 CFR 5.609(b)(10)].
- Income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by federal, state, or local government [24 CFR 5.609(b)(10)].
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11)].
- Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance [24 CFR 5.609(b)(17)]. This income exclusion applies only to veterans in need of regular aid and attendance and not to other beneficiaries of the payments, such as a surviving spouse [Notice PIH 2023-27].
- Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car) [24 CFR 5.609(b)(20)]. The loan borrower or co-borrower must be a member of the family for this income exclusion to be applicable [Notice PIH 2023-27].

- Payments received by tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other federal law [24 CFR 5.609(b)(21)]. Generally, payments received by tribal members in excess of the first $2,000 of per capita shares are included in a family's annual income for purposes of determining eligibility. However, as explained in Notice PIH 2023-27, payments made under the Cobell Settlement, and certain per capita payments under the recent Tribal Trust Settlements, must be excluded from annual income.
- 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, childcare, etc.) and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(12)(ii)].
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(b)(12)(i)].
- Amounts received under a resident service stipend not to exceed $200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development [24 CFR 5.600(b)(12)(iii)].

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

PHA Policy

The CDA 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 CDA 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 CDA 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 CDA's interim reporting requirements (see Chapter 11).

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

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

  HUD publishes an updated list of these exclusions periodically. The most recent list of exclusions was published in the *Federal Register* on January 31, 2024. It includes:

  (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b)). This exclusion also applies to assets.

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

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

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

  (d) Certain payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c)).

  (e) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 5506).

  (f) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f)(1)).

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

  (h) Deferred disability benefits from the Department of Veterans Affairs, whether received as a lump sum or in monthly prospective amounts.

  (i) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Section 6).

  (j) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b)).

  (k) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled *Elouise Cobell et al.* v. *Ken Salazar et al.,* for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010.

(l) The first $2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first $2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408). This exclusion does not include proceeds of gaming operations regulated by the Commission (25 U.S.C. 1407–1408).

(m) Payments received from programs funded under Title V of the Older Americans Act of 1965 (42 U.S.C. 3056(f)).

(n) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent Orange* product liability litigation, M.D.L. No. 381 (E.D.N.Y.). This exclusion also applies to assets.

(o) Payments received under 38 U.S.C. 1833(c) to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean and Thailand service veterans born with spinal bifida (42 U.S.C. 12637(d)).

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

(q) The value of any childcare provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Childcare and Development Block Grant Act of 1990 (42 U.S.C. 9858q).

(r) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j)). This exclusion also applies to assets.

(s) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433). This exclusion also applies to assets.

(t) Amounts of student financial assistance funded under Title IV of the Higher Education Act of 1965j, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu).

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

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

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

(x) Major disaster and emergency assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations. This exclusion also applies to assets.

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

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

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

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

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

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.

CDA Policy

The CDA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. The CDA 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 CDA 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 CDA 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 CDA 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]. The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years.

Minimum Threshold

HUD does not specify a minimum threshold for counting assets disposed of for less than fair market value. A PHA may establish a policy to ignore small amounts such as charitable contributions [New PH OCC GB, *Income Determinations,* p. 24].

CDA Policy

The CDA 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.

CDA 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.

Family Declaration

CDA 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 CDA may verify the value of the assets disposed of if other information available to the CDA does not appear to agree with the information reported by the family.

6-II.C. ASSET INCLUSIONS AND EXCLUSIONS

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

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

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

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

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

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

- The threshold amount is $52,787 for 2026.

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

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

CDA Policy

In determining the value of non-necessary, non-financial personal property, the CDA will use the family's estimate of the value. The CDA 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.

Checking and Savings Accounts [Notice PIH 2023-27]

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

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

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

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 CDA 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- the HUD-published threshold amount, which is adjusted annually and listed in HUD's Inflation Adjusted Values tables, financial investments such as stocks and bonds are considered part of net family assets. In this case, the value of the family's financial investments such as stocks and bonds would be counted toward net family assets.
- When the combined value of all non-necessary personal property does not the HUD-published threshold amount, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's 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.

CDA Policy

The CDA 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 CDA will use the value of the account on the most recent investment report.

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

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

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

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

However, these amounts may count toward net family assets. The PHA must consider any actual or imputed returns from assets as income at the next applicable income examination. In the case where the lump sum addition to assets would lead to imputed income, which is unearned income, that increases the family's annual adjusted income by 10 percent or more, then the addition of the lump sum to the family's assets will trigger an immediate interim reexamination of income in accordance with Chapter 9. This reexamination of income must take place as soon as the lump sum is added to the family's net family assets unless the addition takes place in the last three months of family's income certification period and the PHA chooses not to conduct the examination.

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

CDA Policy

Any lump-sum receipts are only counted as assets if they are retained by a family in a form recognizable as an asset. [RHIIP FAQs]. For example, if the family receives a $10,000 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 CDA 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 basis for determining how to treat trusts relies on information about who has access to either the principal in the account or the income from the account. There are two types of trusts, *revocable* and *irrevocable*.

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

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

- A revocable trust that is under the control of the family is included in net family assets when the grantor is a member of the assisted family. If a revocable trust is included in the calculation of net family assets, then the actual income earned by the revocable trust is also included in the family's income. For example, interest earned or rental income if the property is held in the trust. The PHA must calculate imputed income on the revocable trust if net family assets are more than the HUD-published threshold amount, which is adjusted annually and listed in HUD's Inflation Adjusted Values tables ($52,787 for 2026), and actual income from the trust cannot be calculated (e.g., if the trust is comprised of farmland that is not in use).
- A revocable trust that is not under the control of the family is excluded from net family assets. This happens when a member of the assisted family is the beneficiary of a revocable trust, but the grantor is not a member of the assisted family. In this case the beneficiary does not "own" the revocable trust, and the value of the trust is excluded from net family assets. For the revocable trust to be considered excluded from net family assets, no family or household member may be the account's trustee.

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

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

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 net family assets. When the subtraction results in a negative number, then net family assets are considered $0.

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.

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

- The threshold amount is $52,787 for 2026.

The CDA may not calculate or include any imputed income from assets when net family assets are less than or equal to the HUD-published threshold amount [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 the HUD-published threshold amount, which is adjusted annually and listed in HUD's Inflation Adjusted Values tables, the PHA may not rely on self-certification. If actual returns can be calculated, the CDA 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 CDA 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). Imputed income is calculated by multiplying the net cash value of the asset (found by deducting reasonable costs that would be incurred in disposing of the asset from the market value) by the HUD-published passbook rate. If the CDA can compute actual income from some but not all assets, the CDA 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 CDA to deduct other permissive deductions in accordance with PHA policy. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

> 5.611 *Adjusted income* means annual income (as determined under § 5.609) of the members of the family residing or intending to reside in the dwelling unit, after making the following deductions:
> (a) *Mandatory deductions*
> (1) $500 for each dependent (adjusted annually by HUD, rounded to the next lowest multiple of $25);
> (2) $550 for any elderly family or disabled family (adjusted annually by HUD, rounded to the next lowest multiple of $25);
> (3) The sum of the following, to the extent the sum exceeds ten percent of annual income:
> (i) Unreimbursed health and medical care expenses of any elderly family or disabled family;
> (ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed; and
> (4) Any reasonable childcare expenses necessary to enable a member of the family to be employed or to further his or her education.

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

Anticipating Expenses

CDA Policy

Generally, the CDA will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., childcare during school and non-school periods and cyclical medical expenses), the CDA 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 CDA 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 CDA may require the family to provide documentation of payments made in the preceding year.

When calculating health and medical care expenses, the CDA 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].

6-III.B. DEPENDENT DEDUCTION

An allowance of $500 is deducted from annual income for each dependent (which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of $25) [24 CFR 5.611(a)(1)]. *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 $550 is taken for any elderly or disabled family (which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of $25) [24 CFR 5.611(a)(2)].

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

6-III.D. HEALTH AND MEDICAL CARE EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i)]

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

This deduction is permitted only for families in which the head, spouse, or cohead is at least 62 or is a person with disabilities. If a family is eligible for a health and medical care expense deduction, the unreimbursed health and medical care expenses of all family members are included. The PHA calculates health and medical care expenses based on the family's past expenses, but accounting for any anticipated changes in expenses during the certification period.

Definition of *Medical Expenses*

HUD regulations define *health and medical care expenses* at 24 CFR 5.603(b) to mean "any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed." Health and medical care expenses may be deducted from annual income only if they are eligible under this definition and not otherwise reimbursed.

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 to IRS Publication 502.PHAs must review each expense to determine whether it is eligible in accordance with HUD's definition. While PHA policies may not specifically align with IRS Publication 502, HUD recommends PHAs use it as a standard for determining allowable expenses, and the PHA may list examples of allowable expenses in their policy provided they comply with HUD's definition at 24 CFR 5.603. The PHA may not define *health and medical care expenses* more narrowly than the regulation.

In accordance 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.

CDA Policy

The CDA will use the most current IRS Publication 502 as a standard for determining if expenses claimed by eligible families qualify as health and medical care expenses. However, under no circumstances will the CDA deduct any expenses listed in IRS Publication 502 that do not conform with HUD's definition of *health and medical care expenses.*

Summary of Typical Allowable Health and Medical Care Expenses	
Services of medical professionals Surgery and medical procedures that are necessary, legal, and non-cosmetic Services of medical facilities Hospitalization, long-term care, and in-home nursing services Prescription medicines and insulin, but not nonprescription medicines even if recommended by a doctor Improvements to housing directly related to medical needs (e.g., ramps for a wheelchair, handrails) Medical insurance premiums or the cost of a health maintenance organization (HMO) Medicare Part B and Part D premiums	Substance abuse treatment programs Psychiatric treatment Ambulance services and some costs of transportation related to medical expenses. The PHA will use the most current medical mileage rate listed in IRS Publication 502. The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth) The costs of buying, training, and maintaining a guide dog or other service animal to assist a visually impaired or hearing disabled person, or a person with other physical disabilities. In general, this includes any costs, such as food, grooming, and veterinary care, incurred in maintaining the health and vitality of the service animal so that it may perform its duties.
Note: This chart provides a summary of eligible health and medical care expenses only. In all cases, the PHA will consider whether health and medical expenses care expenses claimed by the family are eligible under HUD's definition.	

Before placing health, medical, or disability expense bills and documentation in the tenant file, the CDA will redact all personally identifiable information.

If the CDA 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 CDA 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 CDA will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will the CDA include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

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

CDA 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 CDA 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 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 percent of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.

Earned Income Limit on the Disability Assistance Expense Deduction

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)].

The disability expense deduction is capped by the amount of "earned income received by family members who are 18 years of age or older and who are able to work" because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any income exclusions are applied.

CDA 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 CDA 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 CDA 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. [New PH OCC GB, *Income Determination,* p. 28].

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 [Notice PIH 2023-27].

CDA 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.

CDA Policy

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

If the care attendant also provides other services to the family, the CDA 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.

CDA Policy

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

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

6-III.F. CHILDCARE EXPENSE DEDUCTION

HUD defines *childcare expenses* at 24 CFR 5.603(b) as "amounts anticipated to be paid by the family for the care of children under 13 years of age (including foster children) during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for childcare. In the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income."

Clarifying the Meaning of *Child* for This Deduction

Childcare expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household [VG, p. 26]. However, childcare expenses for foster children that are living in the assisted family's household are included when determining the family's childcare expenses [HCV GB, p. 5-29].

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

CDA Policy

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

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

Seeking Work

CDA Policy

If the childcare expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member's job search efforts are not commensurate with the childcare expense being allowed by the CDA.

Furthering Education

CDA Policy

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

Being Gainfully Employed

CDA Policy

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

Earned Income Limit on Childcare Expense Deduction

When a family member looks for work or furthers their education, there is no cap on the amount that may be deducted for childcare – although the care must still be necessary and reasonable. However, when childcare enables a family member to work, the deduction is capped by "the amount of employment income that is included in annual income" [24 CFR 5.603(b)].

The earned income used for this purpose is the amount of earned income verified after any income exclusions are applied.

The PHA must not limit the deduction to the least expensive type of childcare. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB, p. 5-30].

CDA Policy

When the childcare expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, the CDA generally will limit allowable childcare expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

Eligible Childcare Expenses

The type of care to be provided is determined by the assisted family. The CDA may not refuse to give a family the childcare expense deduction because there is an adult family member in the household that may be available to provide childcare [VG, p. 26].

Allowable Childcare Activities

CDA Policy

For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of childcare.

The costs of general housekeeping and personal services are not eligible. Likewise, childcare expenses paid to a family member who lives in the family's unit are not eligible; however, payments for childcare to relatives who do not live in the unit are eligible.

If a childcare provider also renders other services to a family or childcare is used to enable a family member to conduct activities that are not eligible for consideration, the CDA will prorate the costs and allow only that portion of the expenses that is attributable to childcare for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. Unless otherwise specified by the childcare provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Necessary and Reasonable Costs

Childcare expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further their education, and (2) the family certifies, and the childcare provider verifies, that the expenses are not paid or reimbursed by any other source.

CDA Policy

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

To establish the reasonableness of childcare costs, the CDA will use the schedule of childcare costs from a qualified local entity that either subsidizes childcare costs or licenses childcare providers. Families may present, and the CDA will consider, justification for costs that exceed typical costs in the area.

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

Health and Medical Care and Disability Assistance Expenses [24 CFR 5.611(c); Notice PIH 2023-27]

The regulations provide for two types of hardship exemption categories for families that qualify for unreimbursed health and medical care expenses and/or disability assistance expenses. A family will benefit from hardship exemptions 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

Phased-in relief applies to families affected by the statutory increase in the threshold for unreimbursed health and medical care expenses and/or disability assistance expenses from 3 percent to 10 percent. Qualifying families are those who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on their most recent income review prior to January 1, 2024. These families will begin receiving a 24-month phased-in relief at their next annual or interim reexamination, whichever occurs first after the date on which the PHA implements phased-in relief.

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.

When an eligible family's phased-in relief begins at an interim reexamination, the PHA must process another transaction (either an interim reexamination or non-interim transaction, as applicable) one year later to move the family to the next phase.

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.

CDA Policy

The CDA will not continue the phased-in relief for families who move from the HCV program to public housing. These families will be treated as new admissions and the sum of expenses that exceeds 10 percent of annual income will be used to calculate their adjusted income.

General Relief

The second category is for families that can demonstrate:

- Their health and medical and/or disability assistance expenses increased; 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.

CDA Policy

To qualify for a hardship exemption, all families must submit a request in writing to the CDA.

Families who qualified for health and medical care expenses and/or disability assistance expenses on or after January 1, 2024, do not qualify for phased-in relief as described above, even if they subsequently qualified prior to the CDA's HOTMA compliance date. However, the CDA defines the change from 3 percent to 10 percent for these families as a change in circumstances that warrants a general relief hardship. These families may request a general relief hardship exemption at their first annual or interim reexamination after the CDA's HOTMA compliance date. For these families, the CDA defines a *change in circumstances* as the CDA's implementation of the 10 percent medical/disability assistance expense threshold, and therefore, will grant the general relief hardship exemption to these families upon written request if the family has eligible expenses that may be deducted in excess of 5 percent of annual income.

For all other families requesting a general relief hardship, the request must show that the family's health and medical and/or disability assistance expenses have increased and that the family's financial hardship is a result of a change in circumstances.

For this purpose, the CDA defines *a change in circumstances* as a decrease in income or increase in other expenses that has resulted in the family's financial hardship but does not, on its own, trigger an interim reexamination in accordance with PHA policies. Examples of a change in circumstances include the need for new health and medical care or disability assistance expenses or an increase in the cost of qualifying expenses so that qualifying expenses exceed 5 percent of the family's annual income

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 CDA.

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, the CDA 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 CDA will 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. If the CDA 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 CDA 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 CDA will note in the individual's file that verification was received, the date received, and the name and address of the person or organization that provided the verification. Under no circumstances will CDA include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

The CDA 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)].

CDA Policy

The CDA 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 CDA denies the hardship exemption request, the CDA notice will also state that if the family does not agree with the CDA determination, the family may request a hearing. If the family qualifies for an exemption, the CDA 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 CDA 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.

CDA Policy

For families who qualified for health and medical care expenses and/or disability assistance expenses on or after January 1, 2024, but prior to the CDA's HOTMA compliance date, for whom the CDA granted the general relief hardship as described above, the CDA will extend relief for additional 90-day periods for up to 12 months from the date the hardship is granted. The family will be required to continue requesting the general relief hardship every 90 days during this period. At the end of the 12-month period, the family will move to the 10 percent threshold, unless the family has other circumstances, as described above, that would warrant a continuation of relief. In such cases, the family must request a new general relief hardship exemption.

For all other families, the family may request an extension either orally or in writing prior to the end of the hardship exemption period. The CDA will extend relief for an additional 90-days if the family demonstrates to the CDA's satisfaction that the family continues to qualify for the hardship exemption based on circumstances described above. The CDA 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 CDA may terminate the hardship exemption if the CDA determines that the family no longer qualifies for the exemption.

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

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

The CDA must develop a policy to define what constitutes a hardship, which includes the family's inability to pay rent. The CDA 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.

CDA 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 CDA defines this hardship as a potential decrease in income or increase in other expenses that would result from the loss of the childcare 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 (childcare 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 childcare expense is still necessary even though the family member is no longer employed or furthering their education. The CDA 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 CDA 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 CDA 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 CDA 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].

CDA Policy

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

If the family qualifies for an exemption, the CDA 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 CDA may, at its discretion, extend the hardship exemptions for additional 90-day periods based on family circumstances and as stated in CDA 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 CDA 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.

CDA Policy

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

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

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

If the PHA chooses to adopt permissive deductions, the PHA is not eligible for an increase in Capital Fund and Operating Fund formula grants based on the application of those deductions. The PHA must establish a written policy for such deductions.

The *Form HUD-50058 Instruction Booklet* states that the maximum allowable amount for total permissive deductions is less than $90,000 per year.

CDA Policy

The CDA has opted not to use permissive deductions.

PART IV: CALCULATING RENT

6-IV.A. OVERVIEW OF INCOME-BASED RENT CALCULATIONS

The first step in calculating income-based rent is to determine each family's total tenant payment (TTP). Then, if the family is occupying a unit that has tenant-paid utilities, the utility allowance is subtracted from the TTP. The result of this calculation, if a positive number, is the tenant rent. If the TTP is less than the utility allowance, the result of this calculation is a negative number, and is called the utility reimbursement, which may be paid to the family or directly to the utility company by the PHA.

TTP Formula [24 CFR 5.628]

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

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- The welfare rent (in as-paid states only)
- A minimum rent between $0 and $50 that is established by the PHA

The CDA has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-IV.B.

Welfare Rent [24 CFR 5.628]

CDA Policy

Welfare rent does not apply in this locality.

Minimum Rent [24 CFR 5.630]

CDA Policy

The minimum rent for this locality is $50.

Optional Changes to Income-Based Rents [24 CFR 960.253(c)(2) and PH Occ GB, pp. 131-134]

PHAs have been given very broad flexibility to establish their own, unique rent calculation systems as long as the rent produced is not higher than that calculated using the TTP and mandatory deductions. At the discretion of the PHA, rent policies may structure a system that uses combinations of permissive deductions, escrow accounts, income-based rents, and the required flat and minimum rents.

The PHA's minimum rent and rent choice policies still apply to affected families. Utility allowances are applied to PHA designed income-based rents in the same manner as they are applied to the regulatory income-based rents.

The choices are limited only by the requirement that the method used not produce a TTP or tenant rent greater than the TTP or tenant rent produced under the regulatory formula.

CDA Policy

The CDA chooses not to adopt optional changes to income-based rents.

Ceiling Rents [24 CFR 960.253 (c)(2) and (d)]

Ceiling rents are used to cap income-based rents. They are part of the income-based formula. If the calculated TTP exceeds the ceiling rent for the unit, the ceiling rent is used to calculate tenant rent (ceiling rent/TTP minus utility allowance). Increases in income do not affect the family since the rent is capped. The use of ceiling rents fosters upward mobility and income mixing.

Because of the mandatory use of flat rents, the primary function of ceiling rents now is to assist families who cannot switch back to flat rent between annual reexaminations and would otherwise be paying an income-based tenant rent that is higher than the flat rent.

Ceiling rents must be set to the level required for flat rents (which will require the addition of the utility allowance to the flat rent for properties with tenant-paid utilities) [PH Occ GB, p. 135].

CDA Policy

The CDA chooses not to use ceiling rents.

Utility Reimbursement [24 CFR 982.514(b); 982.514]

Utility reimbursement occurs when any applicable utility allowance for tenant-paid utilities exceeds the TTP. HUD permits the PHA to pay the reimbursement to the family or directly to the utility provider.

CDA Policy

The CDA will make utility reimbursements to the family.

The PHA may make all utility reimbursement payments to qualifying families on a monthly basis or may make quarterly payments when the monthly reimbursement amount is $15.00 or less. Reimbursements must be made once per calendar-year quarter, either prospectively or retroactively, and must be prorated if the family leaves the program in advance of its next quarterly reimbursement. The PHA must also adopt hardship policies for families for whom receiving quarterly reimbursement would create a financial hardship. The PHA must issue reimbursements that exceed $15.00 per month on a monthly basis.

CDA Policy

The CDA will issue all utility reimbursements monthly.

6-IV.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]

Overview

If the PHA establishes a minimum rent greater than zero, the PHA must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the PHA determines that a hardship exists, the family share is the highest of the remaining components of the family's calculated TTP.

HUD-Defined Financial Hardship

Financial hardship includes the following situations:

(1) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

CDA Policy

A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.

For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following: (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

(2) The family would be evicted because it is unable to pay the minimum rent.

CDA Policy

For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent to the owner or tenant-paid utilities.

(3) Family income has decreased because of changed family circumstances, including the loss of employment.

(4) A death has occurred in the family.

CDA Policy

In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).

(5) The family has experienced other circumstances determined by the CDA.

Implementation of Hardship Exemption

Determination of Hardship

When a family requests a financial hardship exemption, the CDA must suspend the minimum rent requirement beginning the first of the month following the family's request.

The CDA then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

CDA Policy

The CDA defines temporary hardship as a hardship expected to last 90 days or less. Long-term hardship is defined as a hardship expected to last more than 90 days.

When the minimum rent is suspended, the family share reverts to the highest of the remaining components of the calculated TTP. The example below demonstrates the effect of the minimum rent exemption.

Example: Impact of Minimum Rent Exemption Assume the PHA has established a minimum rent of $50.	
Family Share – No Hardship	**Family Share – With Hardship**
$0 30% of monthly adjusted income $15 10% of monthly gross income N/A Welfare rent $50 Minimum rent	$0 30% of monthly adjusted income $15 10% of monthly gross income N/A Welfare rent $50 Minimum rent
Minimum rent applies. TTP = $50	Hardship exemption granted. TTP = $15

CDA Policy

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay the minimum rent.

The CDA will make the determination of hardship within 30 calendar days.

No Financial Hardship

If the PHA determines there is no financial hardship, the PHA will reinstate the minimum rent and require the family to repay the amounts suspended.
For procedures pertaining to grievance hearing requests based upon the PHA's denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

CDA Policy

The CDA will require the family to repay the suspended amount within 30 calendar days of the CDA's notice that a hardship exemption has not been granted.

Temporary Hardship

If the CDA determines that a qualifying financial hardship is temporary, the CDA must suspend the minimum rent for the 90-day period beginning the first of the month following the date of the family's request for a hardship exemption.

At the end of the 90-day suspension period, the family must resume payment of the minimum rent and must repay the CDA the amounts suspended. HUD requires the CDA to offer a reasonable repayment agreement, on terms and conditions established by the CDA. The CDA also may determine that circumstances have changed and the hardship is now a long-term hardship.

For procedures pertaining to grievance hearing requests based upon the CDA's denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

CDA Policy

The CDA will enter into a repayment agreement in accordance with the CDA's repayment agreement policy (see Chapter 16).

Long-Term Hardship

If the CDA determines that the financial hardship is long-term, the CDA must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

CDA Policy

The hardship period ends when any of the following circumstances apply:

(1) At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.

(2) For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a $60/month child support payment, the hardship will continue to exist until the family receives at least $60/month in income from another source or once again begins to receive the child support.

(3) For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

6-IV.C. UTILITY ALLOWANCES [24 CFR 965, Subpart E]

Overview

Utility allowances are provided to families paying income-based rents when the cost of utilities is not included in the rent. When determining a family's income-based rent, the CDA must use the utility allowance applicable to the type of dwelling unit leased by the family.

For policies on establishing and updating utility allowances, see Chapter 16.

Reasonable Accommodation and Individual Relief

On request from a family, CDA must approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family with a disability [24 CFR 8 and 100, PH Occ GB, p. 172].

Likewise, residents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability [PH Occ GB, p. 172]. See Chapter 2 for policies related to reasonable accommodations.

Further, PHAs may grant requests for relief from charges in excess of the utility allowance on reasonable grounds, such as special needs of the elderly, ill, or residents with disabilities, or special factors not within control of the resident, as the CDA deems appropriate. The family must request the higher allowance and provide the CDA with an explanation about the additional allowance required.

PHAs should develop criteria for granting individual relief, notify residents about the availability of individual relief, and notify participants about the availability of individual relief programs (sometimes referred to as "Medical Baseline discounts") offered by the local utility company [Utility Allowance GB, p. 19; 24 CFR 965.508].

CDA Policy

The family must request the higher allowance and provide the CDA with information about the amount of additional allowance required.

The CDA will consider the following criteria as valid reasons for granting individual relief:

The family's consumption was mistakenly portrayed as excessive due to defects in the meter or errors in the meter reading.

The excessive consumption is caused by a characteristic of the unit or owner-supplied equipment that is beyond the family's control, such as a particularly inefficient refrigerator or inadequate insulation. The allowance should be adjusted to reflect the higher consumption needs associated with the unit until the situation is remedied. The resident should be granted individual relief until the allowance is adjusted.

The excessive consumption is due to special needs of the family that are beyond their control, such as the need for specialized equipment in the case of a family member who is ill, elderly, or who has a disability.

In determining the amount of the reasonable accommodation or individual relief, the CDA will allow a reasonable measure of additional usage as necessary. To arrive at the amount of additional utility cost of specific equipment, the family may provide information from the manufacturer of the equipment, or the family or CDA may conduct an internet search for an estimate of usage or additional monthly cost.

Information on reasonable accommodation and individual relief for charges in excess of the utility allowance will be provided to all residents at move-in and with any notice of proposed allowances, schedule surcharges, and revisions. The CDA will also provide information on utility relief programs or medical discounts (sometimes referred to as "Medical Baseline discounts") that may be available through local utility providers.

The family must request the higher allowance and provide the CDA with information about the amount of additional allowance required.

At its discretion, the CDA may reevaluate the need for the increased utility allowance as a reasonable accommodation at any regular reexamination.

If the excessive consumption is caused by a characteristic of the unit or CDA-supplied equipment that is beyond the family's control, such as a particularly inefficient refrigerator or inadequate insulation, the individual relief to the resident will cease when the situation is remedied.

Utility Allowance Revisions [24 CFR 965.507]

The CDA must review at least annually the basis on which utility allowances have been established and, if reasonably required in order to continue adherence to standards described in 24 CFR 965.505, must establish revised allowances.

The CDA must revise the utility allowance schedule if there is a rate change that by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rates on which such allowances were based.

Adjustments to resident payments as a result of such changes must be retroactive to the first day of the month following the month in which the last rate change taken into account in such revision became effective. Such rate changes are not subject to the 60-day notice [24 CFR 965.507(b)].

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

CDA Policy

Between annual reviews of utility allowances, the CDA will only revise its utility allowances due to a rate change, when required to by the regulation.

6-IV.D. PRORATED RENT FOR MIXED FAMILIES [24 CFR 5.520]

HUD regulations prohibit assistance to ineligible family members. A *mixed family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. Except for non-public housing over income families, the PHA must prorate the assistance provided to a mixed family. The PHA will first determine TTP as if all family members were eligible and then prorate the rent based upon the number of family members that actually are eligible. To do this, the PHA must:

(1) Subtract the TTP from the flat rent applicable to the unit. The result is the maximum subsidy for which the family could qualify if all members were eligible.
(2) Divide the family maximum subsidy by the number of persons in the family to determine the maximum subsidy per each family member who is eligible (member maximum subsidy).
(3) Multiply the member maximum subsidy by the number of eligible family members.
(4) Subtract the subsidy calculated in the last step from the flat rent. This is the prorated TTP.
(5) Subtract the utility allowance for the unit from the prorated TTP. This is the prorated rent for the mixed family.

CDA Policy

Revised public housing flat rents will be applied to a mixed family's rent calculation at the first annual reexamination after the revision is adopted.

(6) When the mixed family's TTP is greater than the applicable flat rent, use the TTP as the prorated TTP. The prorated TTP minus the utility allowance is the prorated rent for the mixed family.

6-IV.E. FLAT RENTS AND FAMILY CHOICE IN RENTS [24 CFR 960.253]

Flat Rents [24 CFR 960.253(b)]

The flat rent is designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient.

Changes in family income, expenses, or composition will not affect the flat rent amount because it is outside the income-based formula.

Policies related to the reexamination of families paying flat rent are contained in Chapter 9, and policies related to the establishment and review of flat rents are contained in Chapter 16.

Family Choice in Rents [24 CFR 960.253(a) and (e)]

With the exception of non-public housing over income families, once each year, the PHA must offer families the choice between a flat rent and an income-based rent. The family may not be offered this choice more than once a year. The PHA must document that flat rents were offered to families under the methods used to determine flat rents for the PHA.

CDA Policy

The annual CDA offer to a family of the choice between flat and income-based rent will be conducted upon admission and upon each subsequent annual reexamination.

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

The CDA must provide sufficient information for families to make an informed choice. This information must include the CDA's policy on switching from flat rent to income-based rent due to financial hardship and the dollar amount of the rent under each option. However, if the family chose the flat rent for the previous year the CDA is required to provide an income-based rent amount only in the year that a reexamination of income is conducted or if the family specifically requests it and submits updated income information.

Switching from Flat Rent to Income-Based Rent Due to Hardship [24 CFR 960.253(f)]

With the exception of non-public housing over-income families, a family can opt to switch from flat rent to income-based rent at any time if they are unable to pay the flat rent due to financial hardship. If the PHA determines that a financial hardship exists, the PHA must immediately allow the family to switch from flat rent to the income-based rent.

CDA Policy

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

Reasons for financial hardship include:

- The family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings or other assistance
- The family has experienced an increase in expenses, because of changed circumstances, for medical costs, childcare, transportation, education, or similar items
- Such other situations determined by the PHA to be appropriate

CDA Policy

The CDA considers payment of flat rent to be a financial hardship whenever the switch to income-based rent would be lower than the flat rent [PH Occ GB, p. 137].

EXHIBIT 6-1: ANNUAL INCOME FULL DEFINITION

24 CFR 5.609

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

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

(2) When the value of net family assets exceeds the HUD-published threshold amount (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 are less than or equal to the HUD-published threshold amount (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, childcare, etc.) and which are made solely to allow participation in a specific program;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

EXHIBIT 6-2: TREATMENT OF FAMILY ASSETS

24 CFR 5.603(b) Net Family Assets

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

(2) In determining net family assets, PHAs or owners, as applicable, must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

(3) Excluded from the calculation of net family assets are: (i) The value of necessary items of personal property; (ii) The combined value of all nonnecessary items of personal property if the combined total value does not exceed the HUD-published threshold amount (which amount will be adjusted by HUD in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers); (iii) The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; (iv) The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located; (v) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability; (vi) The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986, the value of any qualified tuition program under section 529 of such Code, the value of any Achieving a Better Life Experience (ABLE) account authorized under Section 529A of such Code, and the value of any "baby bond" account created, authorized, or funded by Federal, State, or local government. (vii) Interests in Indian trust land; (viii) Equity in a manufactured home where the family receives assistance under 24 CFR part 982; (ix) Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982; (x) Family Self-Sufficiency Accounts; and (xi) Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family.

(4) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the trust fund is not a family asset and the value of the trust is not included in the calculation of net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household.

EXHIBIT 6-3: THE EFFECT OF WELFARE BENEFIT REDUCTION

24 CFR 5.615

Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.

(a) *Applicability.* This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

(b) *Definitions.* The following definitions apply for purposes of this section:

Covered families. Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

Economic self-sufficiency program. See definition at Sec. 5.603.

Imputed welfare income. The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

Specified welfare benefit reduction.

(1) A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

(2) "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:

(i) at expiration of a lifetime or other time limit on the payment of welfare benefits;

(ii) because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or

(iii) because a family member has not complied with other welfare agency requirements.

(c) *Imputed welfare income.*

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to the PHA by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

(2) At the request of the PHA, the welfare agency will inform the PHA in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform the PHA of any subsequent changes in the term or amount of such specified welfare benefit reduction. The PHA will use this information to determine the amount of imputed welfare income for a family.

(3) A family's annual income includes imputed welfare income in family annual income, as determined at the PHA's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the PHA by the welfare agency).

(4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed

(5) The PHA may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

(d) *Review of PHA decision.*

(1) Public housing. If a public housing tenant claims that the PHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the tenant written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. The PHA notice shall also state that if the tenant does not agree with the PHA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the PHA determination. The tenant is not required to pay an escrow deposit pursuant to Sec. 966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on the PHA determination.

(2) Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the PHA determination of the amount of imputed welfare income

that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the family written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the PHA determination, the family may request an informal hearing on the determination under the PHA hearing procedure.

(e) *PHA relation with welfare agency.*

(1) The PHA must ask welfare agencies to inform the PHA of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the PHA written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2) The PHA is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to the PHA. However, the PHA is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

(3) Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The PHA shall be entitled to rely on the welfare agency notice to the PHA of the welfare agency's determination of a specified welfare benefits reduction.

State and Local Employment Training Programs [24 CFR 5.609(c)(8)(v)]

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.

CDA Policy

The CDA 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 CDA 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 CDA 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 interim reporting requirements found in the CDA's reexamination policy.

HUD-Funded Training Programs [24 CFR 5.609(c)(8)(i)]

CDA 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.

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

The earned income disallowance (EID) encourages people to enter the work force by not including the full value of increases in earned income for a period of time. The full text of 24 CFR 960.255 is included as Exhibit 6-4 at the end of this chapter. Eligibility criteria and limitations on the disallowance are summarized below.

Eligibility

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

- Employment of a family member who was previously unemployed for one or more years prior to employment. *Previously unemployed* includes a person who annually has earned not more than the minimum wage applicable to the community multiplied by 500 hours. The

applicable minimum wage is the federal minimum wage unless there is a higher state or local minimum wage.

- Increased earnings by a family member whose earnings increase during participation in an economic self-sufficiency or job-training program. A self-sufficiency program includes a program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work to such families [24 CFR 5.603(b)].
- New employment or increased earnings by a family member who has received benefits or services under Temporary Assistance for Needy Families (TANF) or any other state program funded under Part A of Title IV of the Social Security Act within the past six months. If the benefits are received in the form of monthly maintenance, there is no minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as one-time payments, wage subsidies, or transportation assistance, the total amount received over the six-month period must be at least $500.

Calculation of the Disallowance

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with his or her "baseline income." The family member's baseline income is his or her income immediately prior to qualifying for the EID. The family member's baseline income remains constant throughout the period that he or she is participating in the EID.

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

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

Original Calculation Method

Initial 12-Month Exclusion

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

CDA Policy

The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

Second 12-Month Exclusion and Phase-In

Lifetime Limitation

CDA Policy

During the 48-month eligibility period, the CDA will conduct an interim reexamination each time there is a change in the family member's annual income that affects or is affected by the

EID (e.g., when the family member's income falls to a level at or below his/her prequalifying income, when one of the exclusion periods ends, and at the end of the lifetime maximum eligibility period).

Revised Calculation Method

Initial 12-Month Exclusion

During the initial exclusion period of 12 consecutive months, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded.

CDA Policy

The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

Second 12-Month Exclusion

CDA Policy

During the second 12-month exclusion period, the CDA will exclude 50 percent of any increase in income attributable to new employment or increased earnings.

Lifetime Limitation

CDA Policy

The EID has a two-year (24-month) lifetime maximum. The two-year eligibility period begins at the same time that the initial exclusion period begins and ends 24 months later. The one-time eligibility for the EID applies even if the eligible individual begins to receive assistance from another housing agency, if the individual moves between public housing and Section 8 assistance, or if there are breaks in assistance.

Individual Savings Accounts [24 CFR 960.255(d)]

CDA Policy

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

6-I.F. BUSINESS INCOME [24 CFR 5.609(b)(2)]

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

Business Expenses

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

Business Expenses

CDA Policy

To determine business expenses that may be deducted from gross income, the CDA 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

CDA Policy

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

Capital Indebtedness

CDA Policy

Capital indebtedness is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means the CDA will allow as a business expense interest, but not principal, paid on capital indebtedness.

Negative Business Income

Withdrawal of Cash or Assets from a Business

CDA Policy

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of tenant family provided an up-front loan of $2,000 to help a business get started, the CDA will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.

Co-owned Businesses

CDA Policy

If a business is co-owned with someone outside the family, the family must document the share of the business it owns. If the family's share of the income is lower than its share of ownership, the family must document the reasons for the difference.

6-I.G. ASSETS [24 CFR 5.609(b)(3) and 24 CFR 5.603(b)]

Overview

There is no asset limitation for participation in the public housing program. However, HUD requires that the CDA 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 CDA 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 CDA 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 CDA 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 CDA 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 CDA 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 CDA can take into consideration past rental income along with the prospects of obtaining a new tenant.

Income from Assets

CDA Policy

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

Valuing Assets

CDA Policy

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions [HCV GB, p. 5-28 and PH Occ GB, p. 121].

Imputing Income from Assets

CDA Policy

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

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

Changes to the passbook rate will take effect on February 1 following the December review.

Jointly Owned Assets

CDA Policy

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

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

Assets Disposed Of for Less than Fair Market Value

HUD regulations require the CDA 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.

CDA Policy

The CDA 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

CDA 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

CDA Policy

Assets disposed of under foreclosure or bankruptcy are not considered assets disposed of for less than fair market value.

Family Declaration

CDA 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 CDA may verify the value of the assets disposed of if other information available to the CDA does not appear to agree with the information reported by the family.

Types of Assets

Checking and Savings Accounts

The CDA must count amounts in a family's savings and checking accounts as assets. The model ACOP establishes how the value of these assets will be determined and how the anticipated income from these assets will be calculated.

CDA Policy

- In determining the value of a checking account, the CDA will use the average monthlybalance for the last six months.
- In determining the value of a savings account, the CDA will use the current balance.
- In determining the anticipated income from an interest-bearing checking or savings account, the CDA will multiply the value of the account by the current rate of interestpaid on the account.

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

When family assets are held in investment accounts, calculating asset value and anticipated income can be difficult because of fluctuations in value and rates of return. The model ACOP provides a clarification of HUD policy related both to how assets are valued and how income is determined.

CDA Policy

In determining the market value of an investment account, the CDA 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 CDA will calculate asset income based on the earnings for the most recent reporting period.

Equity in Real Property or Other Capital Investments

Equity is the estimated current market value of an asset (such as a house) less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset [HCV GB, p. 5-25 and PH, p. 121].

The model ACOP lists types of property and capital investment that are not counted and explains how assets and income are determined for two types of capital investment: (1) family ownership of a mortgage or deed of trust and (2) joint ownership of real property with someone outside the family unit.

CDA Policy

In determining the equity, the CDA will determine market value by using the estimated market value from the County real estate records on said property.

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

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 CDA determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

Trusts

CDA Policy

A trust is a legal arrangement generally regulated by state law in which on 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). A trust can contain cash or other liquid assets or real or personal property that could be turned into cash. Generally, the assets are invested for the benefit of the beneficiaries.

Determining how to treat a trust depends on who has access to the trust and who receives income from the trust.

If any member of a family has the right to withdraw the funds in a trust, the trust is considered to be an asset and is treated like any other asset.

If no family member has access to a trust at the current time, the trust is not considered to be an asset.

Even though a test is not accessible to a family member, the family member (as the beneficiary) may receive income from the trust. In such cases, the treatment of the income depends on the method of distribution.

Retirement Accounts

CDA Policy

A family member's employer-sponsored pension or retirement account is considered an asset if the money is accessible to the family member.

While a family member is still employed, accessible pension or retirement amounts are counted as an asset even if withdrawal would result in a penalty. However, HUD has clarified that amounts that would be accessible only if the person retired or terminated employment are not counted.

After a family member retires or terminates employment, an employer-sponsored pension or retirement account is treated as follows:

Any balance that remains in the account and may be withdrawn by the family member at any time is counted as an asset.

Any amount the family member elects to receive in a lump sum is treated as a lump-sum receipt.

Any periodic amounts distributed to the family member are counted as income except to the extent that they represent amounts invested by the family member.

Individual Retirement Savings Accounts

CDA Policy

Individual retirement accounts (IRAs), Keogh accounts, and similar retirement savings accounts are counted as assets even though premature withdrawal would result in a

penalty.

Withdrawals are generally considered premature if they occur before the owner of the account reaches age 59 and a half.

One principal difference between these accounts and employer-sponsored pension or retirement accounts is that they are established and controlled by individuals. Hence,

as a general rule, they are always accessible to their owners.

Personal Property

HUD rules exclude from assets necessary items of personal property such as furniture and automobiles [24 CFR 5.603(b)]. However, they do not exclude personal property held as an investment. The model ACOP establishes how the CDA will value personal property held as an investment and what items of personal property it will consider necessary.

CDA Policy

In determining the value of personal property held as an investment, the CDA will use the family's estimate of the value. However, the CDA also may obtain an appraisal if appropriate to confirm the value of the asset. 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 personal property consists of items such as clothing, furniture, household furnishings, jewelry that is not held as an investment, 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.

Periodic Payments Included in Annual Income

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

Lump-Sum Payments for the Delayed Start of a Periodic Payment

Most lump sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not

counted as income. Additionally, any deferred disability benefits that are received in a lump sum or in prospective monthly amounts from the Department of Veterans Affairs are to be excluded from annual income [24 CFR 5.609(c)(14)].

CDA Policy

When a delayed-start payment is received and reported from income sources such as unemployment and welfare assistance during the period in which the CDA is processing an annual reexamination, the CDA will adjust the tenant rent retroactively for the period the payment was intended to cover. The family may pay in full any amount due or request to enter into a repayment agreement with the CDA.

See the chapter on reexaminations for information about a family's obligation to report lump-sum receipts between annual reexaminations.

Treatment of Overpayment Deductions from Social Security Benefits

The CDA must make a special calculation of annual income when the Social Security Administration (SSA) overpays an individual, resulting in a withholding or deduction from his or her benefit amount until the overpayment is paid in full. The amount and duration of the withholding will vary depending on the amount of the overpayment and the percent of the benefit rate withheld. Regardless of the amount withheld or the length of the withholding period, the CDA must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount [Notice PIH 2012-10].

Periodic Payments Excluded from Annual Income

- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone) [24 CFR 5.609(c)(2)]. Kinship care payments are considered equivalent to foster care payments and are also excluded from annual income [Notice PIH 2012-1].

CDA Policy

The CDA 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. PAYMENTS IN LIEU OF EARNINGS

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

6-I.J. WELFARE ASSISTANCE

Overview

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

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

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

Covered Families

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

Imputed Income

When a welfare agency imposes a sanction that reduces a family's welfare income because the family commits fraud or fails to comply with the agency's economic self-sufficiency program or work activities requirement, the CDA must include in annual income "imputed" welfare income. The CDA must request that the welfare agency provide the reason for the reduction of benefits and the amount of the reduction of benefits. The imputed welfare income is the amount that the benefits were reduced as a result of the sanction.

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits, (2) if a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements, or (3) because a family member has not complied with other welfare agency requirements [24 CFR 5.615(b)(2)].

For special procedures related to grievance hearings based upon the CDA's denial of a family's request to lower rent when the family experiences a welfare benefit reduction, see Chapter 14, Grievances and Appeals.

Offsets

The amount of the imputed welfare income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero [24 CFR 5.615(c)(4)].

6-I.K. PERIODIC AND DETERMINABLE ALLOWANCES [24 CFR 5.609(b)(7)]

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

Alimony and Child Support

The CDA must count alimony or child support amounts awarded as part of a divorce or separation agreement *unless* the CDA verifies that the payments are not being made. The CDA must determine what documentation is required to show that the family receives less than the court-ordered amount [HCV GB, p. 5-23].

CDA Policy

The CDA will count court-awarded amounts for alimony and child support unless the CDA 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].

In the event that payments are reduced or ceased, the CDA will adjust child support and/or alimony to reflect the new amount after a 3 month pattern has been established. Resident must report any change to child support or alimony within 30 days.

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 CDA must count as income regular monetary and nonmonetary contributions or gifts from someone outside the family [24 CFR 5.609(b)(7)]. Temporary, nonrecurring, or sporadic income and gifts are not counted [24 CFR 5.609(c)(9)].

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

6-I.L. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME

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

- Reimbursement of medical expenses [24 CFR 5.609(c)(4)]
- The full amount of student financial assistance paid directly to the student or to the educational institution [24 CFR 5.609(c)(6)].

CDA Policy

Regular financial support from parents or guardians to students for food, clothing personal items, and entertainment **is not** considered student financial assistance and is included **in** annual income.

- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(8)(iii)]
- Amounts received by a person with a disability that 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(c)(8)(ii)]
- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(c)(10)]
- Adoption assistance payments in excess of $480 per adopted child [24 CFR 5.609(c)(12)]
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(c)(15)]
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]
- Amounts specifically excluded by any other federal statute [24 CFR 5.609(c)(17), FR Notice 5/20/14]. HUD publishes an updated list of these exclusions periodically. It includes:

  (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))

  (b) Benefits under Section 1780 of the School Lunch Act and Child Nutrition Act of 1966, including WIC

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

  (d) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))

  (e) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)

  (f) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))

  (g) Payments received under programs funded in whole or in part under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

  (h) Deferred disability benefits from the Department of Veterans Affairs, whether received

~~as a lump sum or in monthly prospective amounts~~

~~(i) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)~~

~~(j) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b))~~

~~(k) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled *Elouise Cobell et al.* v. *Ken Salazar et al.,* for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010~~

~~(l) The first $2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first $2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408)~~

~~(m) Benefits under the Indian Veterans Housing Opportunity Act of 2010 (only applies to Native American housing programs)~~

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

~~(o) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent Orange* product liability litigation, M.D.L. No. 381 (E.D.N.Y.)~~

~~(p) Payments received under 38 U.S.C. 1833(c) to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean service veterans born with spinal bifida~~

~~(q) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)~~

~~(r) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q)~~

~~(s) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))~~

~~(t) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)~~

~~(u) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 programs, the exception found in § 237 of Public Law 109-249 applies and requires that the amount of financial assistance in excess of tuition shall be considered income in accordance with the provisions codified at 24 CFR 5.609(b)(9), except for those persons with disabilities as defined by 42 U.S.C. 1437a(b)(3)(E) (Pub. L. 109-249)~~

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

~~(w) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602)~~

~~(x) Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002~~

~~(y) Payments made from the proceeds of Indian tribal trust cases as described in Notice PIH 2013-30, "Exclusion from Income of Payments under Recent Tribal Trust Settlements" (25 U.S.C. 117b(a))~~

~~(z) Major disaster and emergency assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations~~

PART II: ADJUSTED INCOME

6-II.A. INTRODUCTION

Overview

HUD regulations require CDAs to deduct from annual income any of five mandatory deductions for which a family qualifies. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

> 5.611(a) Mandatory deductions. In determining adjusted income, the responsible entity (CDA) must deduct the following amounts from annual income:
>
> (1) $480 for each dependent;
>
> (2) $400 for any elderly family or disabled family;
>
> (3) The sum of the following, to the extent the sum exceeds three percent of annual income:
>
> (i) Unreimbursed medical expenses of any elderly family or disabled family;
>
> (ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and
>
> (4) Any reasonable 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, Verifications.

Anticipating Expenses

CDA Policy

Generally, the CDA 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-schoolperiods and cyclical medical expenses), the CDA 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 CDA 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 CDA may require the family to provide documentation of payments made in the preceding year.

6-II.B. DEPENDENT DEDUCTION

An allowance of $480 is deducted from annual income for each dependent [24 CFR 5.611(a)(1)]. *Dependent* is defined as any family member other than the head, spouse, or cohead who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

6-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION

A single deduction of $400 is taken for any elderly or disabled family [24 CFR 5.611(a)(2)]. An *elderly family* is a family whose head, spouse, cohead, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR 5.403].

6-II.D. MEDICAL EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i)]

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

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

Definition of *Medical Expenses*

HUD regulations define *medical expenses* at 24 CFR 5.603(b) to mean "medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance."

CDA Policy

The CDA will use the most current IRS Publication 502, Medical and Dental Expenses as a reference to determine the costs that qualify as medical expenses and provides a chart that summarizes the expenses.

Summary of Allowable Medical Expenses from IRS Publication 502	
Services of medical professionals Surgery and medical procedures that are necessary, legal, noncosmetic Services of medical facilities Hospitalization, long-term care, and in-home nursing services Prescription medicines and insulin, but not nonprescription medicines even if recommended by a doctor Improvements to housing directly related to medical needs (e.g., ramps for a wheel chair, handrails)	Substance abuse treatment programs Psychiatric treatment Ambulance services and some costs of transportation related to medical expenses The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth) Cost and continuing care of necessary service animals

	Medical insurance premiums or the cost of a health maintenance organization (HMO)
Note: This chart provides a summary of eligible medical expenses only. Detailed information is provided in IRS Publication 502. Medical expenses are considered only to the extent they are not reimbursed by insurance or some other source.	

Families That Qualify for Both Medical and Disability Assistance Expenses

In elderly or disabled households, it is possible that the same expense could be considered either a medical expense or a disability assistance expense. The CDA must clarify for staff how these expenses will be handled.

It might appear to make no difference as long as the expense is deducted. But, the decision can have a significant impact on a family's adjusted income because medical expenses are not limited by the earned income of a person enabled to work. See the example below.

Example: Impact of Counting an Expense as Medical or Disability Assistance	
A family consists of a head of household and a spouse who is a person with disabilities. The family has expenses of $10,000 annually in nursing care for the spouse. The family's annual income is $15,000, including $8,000 earned by the head of household and $7,000 from other sources.	
If the care is considered a medical expense, the CDA will deduct $9,550 from annual income. All medical expenses that exceed 3% of annual income will be deducted: 0.03 × $15,000 = $450 $10,000 − $450 = $9,550	If the care is considered a disability assistance expense, the CDA will deduct $8,000 from annual income. The expense will be capped by the income that the disability assistance allows the head of household to earn, or $8,000.

The decision here should be consistent with the language used in section 6-II.E below.

CDA Policy

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

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

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

Reasonable expenses for attendant care and auxiliary apparatus for a disabled family member may be deducted if they: (1) are necessary to enable a family member 18 years or older to work, (2) are not paid to a family member or reimbursed by an outside source, (3) in combination with

any medical expenses, exceed three percent of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.

Earned Income Limit on the Disability Assistance Expense Deduction

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)].

The disability expense deduction is capped by the amount of "earned income received by family members who are 18 years of age or older and who are able to work" because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

CDA 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 CDA 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 CDA determines that the disability assistance expenses enable more than one family member to work, the disability assistance expenses will be capped by the sum of the family members' incomes [PH Occ GB, p. 124].

Eligible Disability Expenses

Examples of auxiliary apparatus are provided in the *PH Occupancy Guidebook* as follows: "Auxiliary apparatus: Including wheelchairs, walkers, scooters, reading devices for persons with visual disabilities, equipment added to cars and vans to permit their use by the family member with a disability, or service animals" [PH Occ GB, p. 124], but only if these items are directly related to permitting the disabled person or other family member to work [HCV GB, p. 5-30].

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

Eligible Auxiliary Apparatus

CDA Policy

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

Eligible Attendant Care

The family determines the type of attendant care that is appropriate for the person with disabilities.

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

Payments to Family Members

No disability expenses may be deducted for payments to a member of a tenant family [23 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the tenant family may be deducted if they are 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.

CDA Policy

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

Families That Qualify for Both Medical and Disability Assistance Expenses

CDA Policy

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

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

6-II.F. CHILD CARE EXPENSE DEDUCTION

HUD defines *child care expenses* at 24 CFR 5.603(b) as "amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income."

Childcare expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household [VG, p. 26]. However, childcare expenses for foster children that are living in the assisted family's household are included when determining the family's childcare expenses.

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

CDA Policy

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

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

Seeking Work

CDA Policy

If the childcare expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member's job search efforts are not commensurate with the childcare expense being allowed by the CDA.

Furthering Education

The CDA must define the types of educational activities that would qualify a family for childcarebased upon furthering education.

CDA Policy

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

Being Gainfully Employed

The CDA must determine whether a family qualifies for the childcare expense deduction because a family member is gainfully employed.

CDA Policy

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

Earned Income Limit on Child Care Expense Deduction

When a family member looks for work or furthers his or her education, there is no cap on the amount that may be deducted for childcare—although the care must still be necessary and

reasonable. However, when childcare enables a family member to work, the deduction is capped by "the amount of employment income that is included in annual income" [24 CFR 5.603(b)].

The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied. When the person who is enabled to work is a person who receives the earned income disallowance (EID) or a full-time student whose earned income above $480 is excluded, childcare costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes $15,000 but because of the EID only $5,000 is included in annual income, childcare expenses are limited to $5,000.

The CDA must not limit the deduction to the least expensive type of childcare. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB, p. 5-30].

Eligible Child Care Expenses

The type of care to be provided is determined by the tenant family. The CDA may not refuse to give a family the childcare expense deduction because there is an adult family member in the household that may be available to provide childcare [VG, p. 26].

Allowable Child Care Activities

CDA Policy

When the childcare expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, the CDA generally will limit allowable childcare expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

Necessary and Reasonable Costs

Childcare expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further his or her education, and (2) the family certifies, and the childcare provider verifies, that the expenses are not paid or reimbursed by any other source.

CDA Policy

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

6-II.G. PERMISSIVE DEDUCTIONS [24 CFR 5.611(b)(1)]

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 CDA 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].

The *Form HUD-50058 Instruction Booklet* states that the maximum allowable amount for total permissive deductions is less than $90,000 per year.

CDA Policy

The CDA does not offer permissive deductions

PART III: CALCULATING RENT

6-III.A. OVERVIEW OF INCOME-BASED RENT CALCULATIONS

The first step in calculating income-based rent is to determine each family's total tenant payment (TTP). Then, if the family is occupying a unit that has tenant-paid utilities, the utility allowance is subtracted from the TTP. The result of this calculation, if a positive number, is the tenant rent. If the TTP is less than the utility allowance, the result of this calculation is a negative number, and is called the utility reimbursement, which may be paid to the family or directly to the utility company by the CDA.

TTP Formula [24 CFR 5.628]

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

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- The welfare rent (in as-paid states only)
- A minimum rent between $0 and $50 that is established by the CDA

The CDA has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-III.B.

Welfare Rent [24 CFR 5.628]

CDA Policy

Welfare rent does not apply in this locality.

Minimum Rent [24 CFR 5.630]

HUD requires the CDA to establish a minimum rent that may be from $0 to $50.

Minimum rent applies only when the CDA-established minimum rent is the highest amount in the TTP calculation. See below for an example of how the minimum rent applies.

Example: Impact of Minimum Rent on TTP Calculations

A family receives $3,000 annually, or $250 monthly, in welfare assistance. The family has three children and no other deductions. The dependent deduction for the three children amounts to $480 × 3 = $1,440, so the family's annual adjusted income is $3,000 − $1,440 = $1,560, making its monthly adjusted income $1,560 ÷ 12 = $130. The family's utility allowance is $65. The welfare rent is not applicable.

With Minimum Rent of $0

TTP equals the greatest of:

$39	Monthly adjusted income × 0.30
$25	Monthly gross income × 0.10
N/A	Welfare rent (N/A)
$0	Minimum Rent

$39	TTP
− 65	Utility allowance
$26	Utility reimbursement

With Minimum Rent of $50

TTP equals the greatest of:

$39	Monthly adjusted income × 0.30
$25	Monthly gross income × 0.10
N/A	Welfare rent (if applicable)
$50	Minimum Rent

$50	TTP
− 65	Utility allowance
$15	Utility reimbursement

HUD regulations provide for hardship exemptions from minimum rent. See section 6-III.B

CDA Policy

The minimum rent for this locality is $50.

Optional Changes to Income-Based Rents [24 CFR 960.253(c)(2) and PH Occ GB, pp. 131-134]

CDAs have been given very broad flexibility to establish their own, unique rent calculation systems as long as the rent produced is not higher than that calculated using the TTP and mandatory deductions. At the discretion of the CDA, rent policies may structure a system that uses combinations of permissive deductions, escrow accounts, income-based rents, and the required flat and minimum rents.

The CDA's minimum rent and rent choice policies still apply to affected families. Utility allowances are applied to CDA-designed income-based rents in the same manner as they are applied to the regulatory income-based rents.

The choices are limited only by the requirement that the method used not produce a TTP or tenant rent greater than the TTP or tenant rent produced under the regulatory formula.

CDA Policy

The CDA chooses not to adopt optional changes to income-based rents.

Ceiling Rents [24 CFR 960.253 (c)(2) and (d)]

Ceiling rents are used to cap income-based rents. They are part of the income-based formula. If the calculated TTP exceeds the ceiling rent for the unit, the ceiling rent is used to calculate tenant rent (ceiling rent/TTP minus utility allowance). Increases in income do not affect the family since the rent is capped. The use of ceiling rents fosters upward mobility and income mixing.

Because of the mandatory use of flat rents, the primary function of ceiling rents now is to assist families who cannot switch back to flat rent between annual reexaminations and would otherwise be paying an income-based tenant rent that is higher than the flat rent.

Ceiling rents must be set to the level required for flat rents (which will require the addition of the utility allowance to the flat rent for properties with tenant-paid utilities) [PH Occ GB, p. 135].

CDA Policy

The CDA chooses not to use ceiling rents.

Utility Reimbursement [24 CFR 960.253(c)(4)]

Utility reimbursement occurs when any applicable utility allowance for tenant-paid utilities exceeds the TTP. HUD permits the CDA to pay the reimbursement to the family or directly to the utility provider.

CDA Policy

The CDA will make utility reimbursements to the family.

The CDA may make all utility reimbursement payments to qualifying families on a monthly basis or may make quarterly payments when the monthly reimbursement amount is $15.00 or less. Reimbursements must be made once per calendar-year quarter, either prospectively or retroactively, and must be prorated if the family leaves the program in advance of its next quarterly reimbursement. The CDA must also adopt hardship policies for families for whom receiving quarterly reimbursement would create a financial hardship. The CDA must issue reimbursements that exceed $15.00 per month on a monthly basis.

CDA Policy

The CDA will issue all utility reimbursements monthly.

6-III.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]

Overview

If the CDA establishes a minimum rent greater than zero, the CDA must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the CDA determines that a hardship exists, the TTP is the highest of the remaining components of the family's calculated TTP.

HUD-Defined Financial Hardship

Financial hardship includes the following situations:

(1) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

CDA Policy

A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.

For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

(2) The family would be evicted because it is unable to pay the minimum rent.

CDA Policy

For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent or tenant-paid utilities.

(3)Family income has decreased because of changed family circumstances, including the loss of employment.

(4) A death has occurred in the family.

CDA Policy

In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).

The family has experienced other circumstances determined by the CDA.

CDA Policy

The CDA has not established any additional hardship criteria.

Implementation of Hardship Exemption

Determination of Hardship

When a family requests a financial hardship exemption, the CDA must suspend the minimum rent requirement beginning the first of the month following the family's request.

The CDA then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

CDA Policy

The CDA defines temporary hardship as a hardship expected to last 90 days or less. Long term hardship is defined as a hardship expected to last more than 90 days.

The CDA may not evict the family for nonpayment of minimum rent during the 90-day period beginning the month following the family's request for a hardship exemption.

When the minimum rent is suspended, the TTP reverts to the highest of the remaining components of the calculated TTP. The example below demonstrates the effect of the minimum rent exemption.

Example: Impact of Minimum Rent Exemption Assume the CDA has established a minimum rent of $35.	
TTP – No Hardship	**TTP – With Hardship**
$0 30% of monthly adjusted income $15 10% of monthly gross income N/A Welfare rent $35 Minimum rent	$0 30% of monthly adjusted income $15 10% of monthly gross income N/A Welfare rent $35 Minimum rent
Minimum rent applies. TTP = $35	Hardship exemption granted. TTP = $15

CDA Policy

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay the minimum rent.

The CDA will make the determination of hardship within 30 calendar days.

No Financial Hardship

If the CDA determines there is no financial hardship, the CDA will reinstate the minimum rent and require the family to repay the amounts suspended.

For procedures pertaining to grievance hearing requests based upon the CDA's denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

CDA Policy

The CDA will require the family to repay the suspended amount within 30 calendar days of the CDA's notice that a hardship exemption has not been granted.

Temporary Hardship

If the CDA determines that a qualifying financial hardship is temporary, the CDA must reinstate the minimum rent from the beginning of the first of the month following the date of the family's request for a hardship exemption.

The family must resume payment of the minimum rent and must repay the CDA the amounts suspended. HUD requires the CDA to offer a reasonable repayment agreement, on terms and conditions established by the CDA. The CDA also may determine that circumstances have changed and the hardship is now a long-term hardship.

For procedures pertaining to grievance hearing requests based upon the CDA's denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

CDA Policy

The CDA will enter into a repayment agreement in accordance with the CDA's repayment policy. The full amount is due within 30 days of the CDA's notice that a hardship exemption has not been granted unless a repayment agreement has been requested by the participant.

Long-Term Hardship

If the CDA determines that the financial hardship is long-term, the CDA must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

CDA Policy

- The hardship period ends when any of the following circumstances apply:
- At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.
- For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a
    - $60/month child support payment, the hardship will continue to exist until the familyreceives at least $60/month in income from another source or once again begins to receive the child support.
- For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equalto the expense incurred.

6-III.C. UTILITY ALLOWANCES [24 CFR 965, Subpart E]

Overview

Utility allowances are provided to families paying income-based rents when the cost of utilities is not included in the rent. When determining a family's income-based rent, the CDA must use the utility allowance applicable to the type of dwelling unit leased by the family.

For policies on establishing and updating utility allowances, see Chapter 16.

Reasonable Accommodation [24 CFR 8]

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

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

See Chapter 2 for policies related to reasonable accommodations.

Utility Allowance Revisions [24 CFR 965.507]

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

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

CDA Policy

Unless the CDA is required to revise utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

6-III.D. PRORATED RENT FOR MIXED FAMILIES [24 CFR 5.520]

HUD regulations prohibit assistance to ineligible family members. A *mixed family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. The CDA must prorate the assistance provided to a mixed family. The CDA will first determine TTP as if all family members were eligible and then prorate the rent based upon the number of family members that actually are eligible. To do this, the CDA must:

(1) Subtract the TTP from the flat rent applicable to the unit. The result is the maximum subsidy for which the family could qualify if all members were eligible.

(2) Divide the family maximum subsidy by the number of persons in the family to determine the maximum subsidy per each family member who is eligible (member maximum subsidy).

(3) Multiply the member maximum subsidy by the number of eligible family members.

(4) Subtract the subsidy calculated in the last step from the flat rent. This is the prorated TTP.

(5) Subtract the utility allowance for the unit from the prorated TTP. This is the prorated rent for the mixed family.

CDA Policy

Revised public housing flat rents will be applied to a mixed family's rent calculation at the first annual reexamination after the revision is adopted.

(6) When the mixed family's TTP is greater than the applicable flat rent, use the TTP as the prorated TTP. The prorated TTP minus the utility allowance is the prorated rent for the mixed family.

6-III.E. FLAT RENTS AND FAMILY CHOICE IN RENTS [24 CFR 960.253]

Flat Rents [24 CFR 960.253(b)]

The flat rent is designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient.

Changes in family income, expenses, or composition will not affect the flat rent amount because it is outside the income-based formula.

Policies related to the reexamination of families paying flat rent are contained in Chapter 9, and policies related to the establishment and review of flat rents are contained in Chapter 16.

Family Choice in Rents [24 CFR 960.253(a) and (c)]

Once each year, the CDA must offer families the choice between a flat rent and an income-based rent. The family may not be offered this choice more than once a year. The CDA must document that flat rents were offered to families under the methods used to determine flat rents for the CDA.

CDA Policy

The annual CDA offer to a family of the choice between flat and income-based rent will be conducted upon admission and upon each subsequent annual reexamination.

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

The CDA must provide sufficient information for families to make an informed choice. This information must include the CDA's policy on switching from flat rent to income-based rent due to financial hardship and the dollar amount of the rent under each option. However, if the family chose the flat rent for the previous year the CDA is required to provide an income-based rent amount only in the year that a reexamination of income is conducted or if the family specifically requests it and submits updated income information.

Switching from Flat Rent to Income-Based Rent Due to Hardship [24 CFR 960.253(f)]

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

CDA Policy

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

Reasons for financial hardship include:

- The family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings or other assistance
- The family has experienced an increase in expenses, because of changed circumstances, for medical costs, childcare, transportation, education, or similar items
- Such other situations determined by the CDA to be appropriate

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CDA Policy

The CDA considers payment of flat rent to be a financial hardship whenever the switch to income-based rent would be lower than the flat rent [PH Occ GB, p. 137].

Phasing In Flat Rents [Notice PIH 2015-13; 24 CFR 960.253(b)]

When new flat rents requirements were implemented in 2014, HUD limited the increase for existing residents paying flat rent at that time to no more than 35 percent of the current tenant rent per year. In some cases, this meant that some residents had or will have their flat rents phased-in at the time of their annual recertification. To do this, CDAs conduct a flat rent impact analysis to determine whether a phase-in is or was necessary. For families whose flat rent is being phased-in, the CDA must multiply the family's current rent amount by 1.35 and compare the result to the flat rent under the CDA's policies. Families who have subsequently been admitted to the program or have subsequently selected flat rent will not experience a phase-in.

Notice PIH 2015-13 requires that flat rents must be phased in at the full 35 percent per year. CDAs do not have the option of phasing in flat rent increases at less than 35 percent per year.

Example: A family was paying a flat rent of $500 per month. At their annual recertification, the CDA has increased the flat rent for their unit size to comply with the new requirements to $700. The CDA conducted a flat rent impact analysis as follows:

$500 x 1.35 = $675

Since the CDA's increased flat rent of $700 resulted in a rent increase of more than 35 percent, the CDA offered the family the choice to pay either $675 per month or an income-based rent. The flat rent increase was phased in. At their next annual recertification in November 2015, the CDA will again multiply the family's current flat rent by 1.35 and compare the results to the CDA's current flat rent.

Flat Rents and Earned Income Disallowance [A&O FAQs]

Because the EID is a function of income-based rents, a family paying flat rent cannot qualify for the EID even if a family member experiences an event that would qualify the family for the EID. If the family later chooses to pay income-based rent, they would only qualify for the EID if a new qualifying event occurred.

Under the EID original calculation method, a family currently paying flat rent that previously qualified for the EID while paying income-based rent and is currently within their exclusion period would have the exclusion period continue while paying flat rent as long as the employment that is the subject of the exclusion continues. A family paying flat rent could therefore see a family member's exclusion period expire while the family is paying flat rent.

Under the EID revised calculation method, a family currently paying flat rent that previously qualified for the EID while paying income-based rent and is currently within their exclusion period would have the exclusion period continue while paying flat rent regardless of whether theemployment that is the subject of the exclusion continues. A family paying flat rent could therefore see a family member's exclusion period expire while the family is paying flat rent.

EXHIBIT 6-1: ANNUAL INCOME INCLUSIONS

24 CFR 5.609

(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[1]; and

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

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

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

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

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

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

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

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

HHS DEFINITION OF "ASSISTANCE"

45 CFR: GENERAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

260.31 What does the term "assistance" mean?

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

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

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

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

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

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

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

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

(iii) Will not extend beyond four months.

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

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

(4) Refundable earned income tax credits;

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

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

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

EXHIBIT 6-2: ANNUAL INCOME EXCLUSIONS

24 CFR 5.609

(c) Annual income does not include the following:

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

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

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

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

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

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

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

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

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

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

(iv) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed $200 per month) received by a resident for performing a service for the CDA 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 CDA'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 CDAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary. [See the following chart for a list of benefits that qualify for this exclusion.]~~

EXHIBIT 6-3: TREATMENT OF FAMILY ASSETS

24 CFR 5.603(b) Net Family Assets

(1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

(2) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under Sec. 5.609.

(3) In determining net family assets, CDAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

(4) For purposes of determining annual income under Sec. 5.609, the term "net family assets" does not include the value of a home currently being purchased with assistance under part 982, subpart M of this title. This exclusion is limited to the first 10 years after the purchase date of the home.

EXHIBIT 6-4: EARNED INCOME DISALLOWANCE

24 CFR 960.255 Self-sufficiency incentive–Disallowance of increase in annual income.

(a) *Definitions*. The following definitions apply for purposes of this section.

Baseline income. The annual income immediately prior to implementation of the disallowance described in paragraph (c)(1) of this section of a person who is a member of a qualified family.

Disallowance. Exclusion from annual income.

Previously unemployed includes a person who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

Qualified family. A family residing in public housing:

(i) Whose annual income increases as a result of employment of a family member who was unemployed for one or more years previous to employment;

(ii) Whose annual income increases as a result of increased earnings by a family member during participation in any economic self-sufficiency or other job training program; or

(iii) Whose annual income increases, as a result of new employment or increased earnings of a family member, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the CDA in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance—provided that the total amount over a six-month period is at least $500.

(b) *Disallowance of increase in annual income*.

(1) *Initial twelve month exclusion*. During the 12-month period beginning on the date on which a member of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the CDA must exclude from the annual income (as defined in § 5.609 of this title) of a qualified family any increase in the income of the family member as a result of employment over the baseline income of that family member.

(2) *Phase-in of rent increase*. Upon the expiration of the 12-month period defined in paragraph (b)(1) of this section and for the subsequent 12-month period, the CDA must exclude from the annual income of a qualified family at least 50 percent of any increase in income of such family member as a result of employment over the family member's baseline income.

(3) *Maximum 2-year disallowance*. The disallowance of increased income of an individual family member as provided in paragraph (b)(1) or (b)(2) of this section is limited to a lifetime 24-month period. It applies for a maximum of 12 months for disallowance under paragraph (b)(1) of this section and a maximum of 12 months for disallowance under paragraph (b)(2) of this section, during the 24-month period starting from the initial exclusion under paragraph (b)(1) of this section.

(4) Effect of changes on currently participating families. Families eligible for and participating in the disallowance of earned income under this section prior to May 9, 2016 will continue to be governed by this section in effect as it existed immediately prior to that date.

(c) *Inapplicability to admission*. The disallowance of increases in income as a result of employment under this section does not apply for purposes of admission to the program (including the determination of income eligibility and income targeting).

(d) *Individual Savings Accounts*. As an alternative to the disallowance of increases in income as a result of employment described in paragraph (b) of this section, a CDA may choose to provide for individual savings accounts for public housing residents who pay an income-based rent, in accordance with a written policy, which must include the following provisions:

(1) The CDA must advise the family that the savings account option is available;

(2) At the option of the family, the CDA must deposit in the savings account the total amount that would have been included in tenant rent payable to the CDA as a result of increased income that is disallowed in accordance with paragraph (b) of this section;

(3) Amounts deposited in a savings account may be withdrawn only for the purpose of:

(i) Purchasing a home;

(ii) Paying education costs of family members;

(iii) Moving out of public or assisted housing; or

(iv) Paying any other expense authorized by the CDA for the purpose of promoting the economic self-sufficiency of residents of public housing;

(4) The CDA must maintain the account in an interest bearing investment and must credit the family with the net interest income, and the CDA may not charge a fee for maintaining the account;

(5) At least annually the CDA must provide the family with a report on the status of the account; and

(6) If the family moves out of public housing, the CDA shall pay the tenant any balance in the account, minus any amounts owed to the CDA

EXHIBIT 6-5: THE EFFECT OF WELFARE BENEFIT REDUCTION

24 CFR 5.615

Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.

(a) Applicability. This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

(b) Definitions. The following definitions apply for purposes of this section:

Covered families. Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

Economic self-sufficiency program. See definition at Sec. 5.603.

Imputed welfare income. The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

Specified welfare benefit reduction.

(1) A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

(2) "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:

(i) at expiration of a lifetime or other time limit on the payment of welfare benefits;

(ii) because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or

(iii) because a family member has not complied with other welfare agency requirements.

(c) Imputed welfare income.

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to the CDA by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

(2) At the request of the CDA, the welfare agency will inform the CDA in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform the CDA of any subsequent changes in the term or amount of such specified welfare benefit reduction. The CDA will use this information to determine the amount of imputed welfare income for a family.

(3) A family's annual income includes imputed welfare income in family annual income, as determined at the CDA's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the CDA by the welfare agency).

(4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed

(5) The CDA may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

(d) *Review of CDA decision.*

(1) Public housing. If a public housing tenant claims that the CDA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the CDA denies the family's request to modify such amount, the CDA shall give the tenant written notice of such denial, with a brief explanation of the basis for the CDA determination of the amount of imputed welfare income. The CDA notice shall also state that if the tenant does not agree with the CDA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the CDA determination. The tenant is not required to pay an escrow deposit pursuant to Sec. 966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on the CDA determination.

(2) Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the CDA determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if the CDA denies the family's request to modify such amount, the CDA shall give the family written notice of such denial, with a brief explanation of the basis for the CDA determination (3) of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the CDA determination, the family may request an informal hearing on the determination under the CDA hearing procedure.

(4) *CDA relation with welfare agency.*

(5) The CDA must ask welfare agencies to inform the CDA of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the CDA written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(6) The CDA is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to the CDA. However, the CDA is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

(7) Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The CDA shall be entitled to rely on the welfare agency notice to the CDA of the welfare agency's determination of a specified welfare benefits reduction.

Chapter 7

VERIFICATION

[24 CFR 960.259, 24 CFR 5.230, Notice PIH ~~2010-19~~2023-27]

INTRODUCTION

This chapter is applicable upon the CDA's HOTMA 102/104 compliance date.

The CDA 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 CDA must not pass on the cost of verification to the family.

The CDA will follow the verification guidance provided by HUD in Notice PIH 2010-19 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary CDA 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 established by the CDA.

PART I: GENERAL VERIFICATION REQUIREMENTS

7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 960.259, 24 CFR 5.230; Notice PIH 2023-27; and HOTMAquestions@HUD.gov response 9/15/25]

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

Consent Forms

~~It is required that all adult applicants and tenants sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the CDA 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 family must supply any information that the PHA or HUD determines is necessary to the administration of the program and must consent to PHA verification of that information [24 CFR 960.259(a)(1)]. All adult family members must sign consent forms as needed to collect information relevant to the family's eligibility and level of assistance. While PHAs must use form HUD-9886-A, 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.

In addition, if a PHA chooses to distribute EIV reports via mail, email, or other methods, they must ensure compliance with the Federal Privacy Act.

CDA Policy

At admission, the CDA will request that all adult family members (other than the head of household) sign consent forms stating that their EIV income information may be shared with the head of household. Adult family members with no such consent form on file will be requested to sign at annual reexamination.

If an adult family member other than the head of household fails to sign a consent form stating that their EIV income information may be shared with the head of household, the PHA will utilize EIV's "Print Household Member Information" feature to generate income reports addressed separately to each adult in the household. For example, if a household has two adults, the CDA will provide one report to the head of household and a separate report to the other adult member.

Refusal by an adult family member to sign a form granting permission to provide EIV information to the head of household is not grounds for denial or termination of assistance of either the individual or the family.

The executed form will remain effective until the family is denied assistance, the individual leaves the program, or the family member provides written notification to the CDA to revoke consent.

Form HUD-9886-A, Authorization for Release of Information [24 CFR 5.230(b)(1), (b)(2), (c)(4), and (c)(5); Notice PIH 2023-27]

All adult family members (and the head and spouse/cohead regardless of age) are required to sign the Form HUD-9886-A at admission. Prior to January 1, 2024, participants signed and submitted Form HUD-9886 at each annual reexamination. HOTMA eliminated this requirement. 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-A at their next interim or annual reexamination. This form is only signed once. Another Form HUD-9886-A 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.

CDA Policy

Family members turning 18 years of age between annual reexaminations will be notified in writing that they are required to sign the required Consent to the Release of Information Form HUD-9886-A within 10 business days of turning 18 years of age.

The purpose of form HUD-9886-A 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 CDA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). The CDA must also develop its own release forms to cover all other information not covered by the form HUD-9886-A.

The CDA 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 CDA 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 CDA 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 deny admission to applicants and terminate the lease of tenants [24 CFR 5.232(a)]. The family may request a hearing in accordance with the PHA's grievance procedures.

However, this does not apply if the applicant, participant, or any member of their family revokes their consent with respect to the ability of the PHA to access financial records from financial institutions, unless the PHA establishes a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance [24 CFR 5.232(c)]. PHAs may not process interim or annual reexaminations of income without the family's executed consent forms.

CDA Policy

The CDA 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 CDA policy.

In order for a family to revoke their consent, the family must provide written notice to the CDA.

Within 10 business days of the date the family provides written notice, the CDA 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 CDA will notify the local HUD office.

If any family member who is required to sign a consent form fails to do so, the CDA will deny admission to applicants and terminate the lease of tenants. The family may request a hearing in accordance with the CDA's grievance procedures.

7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS

HUD's Verification Hierarchy [Notice PIH 2010-19]

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 CDA to use the most reliable form of verification that is available and to document the reasons when the CDA uses a lesser form of verification.

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

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

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

Requirements for Acceptable Documents

CDA Policy

Any documents used for verification must be the original (not photocopies) and generally must be dated within 120 calendar days of the date they are provided to the CDA. The documents must not be damaged, altered or in any way illegible.

Print-outs from web pages are considered original documents.

The CDA staff member who views the original document must make a photocopy.

Any family self-certifications must be made in a format acceptable to the CDA.

File Documentation

The CDA 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 CDA has followed all of the verification policies set forth in this ACOP. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

CDA Policy

The CDA will document, in the family file, the following:

- Reported family annual income
- Value of assets
- Expenses related to deductions from annual income
- Other factors influencing the adjusted income or income-based rent determination

When the CDA is unable to obtain third-party verification, the CDA will document in the family file the reason that third-party verification was not available [24 CFR 960.259(c)(1); Notice PIH 2010-19].

7-I.C. UP-FRONT INCOME VERIFICATION (UIV)

Up-front income verification (UIV) refers to the CDA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. UIV will be used to the extent that these systems are available to the CDA.

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 CDA has independently verified the UIV information and the family has been granted the opportunity to contest any adverse findings through the CDA's informal review/hearing processes. (For more on UIV and income projection, see section 6-I.C.)

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

CDAs must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during mandatory reexaminations or recertifications of family composition and income in accordance with 24 CFR 5.236 and administrative guidance issued by HUD. HUD's EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families. The following policies apply to the use of HUD's EIV system.

EIV Income Reports

The data shown on income reports is updated quarterly. Data may be between three and six months old at the time reports are generated.

CDA Policy

The CDA will obtain income reports for annual reexaminations on a monthly basis. Reports will be generated as part of the regular reexamination process.

Income 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 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 and calculate earned income, 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 reports will be retained in resident files with the applicable annual or interim reexamination documents.

When the CDA determines through income reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 15, Program Integrity.

EIV Identity Verification

The EIV system verifies resident identities against Social Security Administration (SSA) records. These records are compared to Public and Indian Housing Information Center (PIC) data for a match on social security number, name, and date of birth.

CDAs are required to use EIV's *Identity Verification Report* on a monthly basis to improve the availability of income information in EIV [Notice PIH 2012-10].

When identity verification for a resident fails, a message will be displayed within the EIV system and no income information will be displayed.

CDA Policy

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

Upfront Income Verification Using Non-HUD Systems (Optional)

In addition to mandatory use of the EIV system, HUD encourages CDAs to utilize other upfront verification sources.

CDA Policy

The CDA will inform all applicants and residents of its use of the following UIV resources during the admission and reexamination process:

- HUD's EIV system
- Work Number
- Paystubs

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 CDA by the family. If written third-party verification is not available, the CDA 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 2010-19]

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 CDA is required to obtain, at minimum, two current and consecutive pay stubs for determining annual income from wages.

The CDA 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.

CDA Policy

Third-party documents provided by the family must be dated within 120 days of the CDA request date.

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

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

Written Third-Party Verification Form

When upfront verification is not available and the family is unable to provide written third-party documents, the CDA 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.

CDAs may mail, fax, or e-mail third-party written verification form requests to third-party sources.

CDA Policy

The CDA 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 CDA.

Oral Third-Party Verification [Notice PIH 2010-19]

For third-party oral verification, CDAs 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.

CDAs should document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

CDA Policy

In collecting third-party oral verification, CDA 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 CDA 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 2010-19]

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.

CDA Policy

If the family cannot provide original documents, the CDA will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost [VG, p. 18].

Primary Documents

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

Imputed Assets

The CDA may accept a self-certification from the family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28].

CDA Policy

The CDA will accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28].

Value of Assets and Asset Income [24 CFR 960.259]

For families with net assets totaling $5,000 or less, the CDA may accept the family's declaration of asset value and anticipated asset income. However, the CDA is required to obtain third-party verification of all assets regardless of the amount during the intake process, whenever a family member is added, and at least every three years thereafter.

CDA Policy

For families with net assets totaling $5,000 or less, the CDA 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 CDA 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.E. SELF-CERTIFICATION

When HUD requires third-party verification, self-certification, or "tenant declaration," is used as a last resort when the CDA is unable to obtain third-party verification.

Self-certification, however, is an acceptable form of verification when:

- A source of income is fully excluded
- Net family assets total $5,000 or less and the CDA has adopted a policy to accept self-certification at annual recertification, when applicable
- The CDA has adopted a policy to implement streamlined annual recertifications for fixed sources of income (See Chapter 9)

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

CDA 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 CDA.

The CDA 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 CDA and must be signed by the family member whose information or status is being verified.

PART II: VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

CDA Policy

The CDA will require families to furnish verification of legal identity for each household member.

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
Certificate of birth, naturalization papers Church issued baptismal certificate Current, valid driver's license or Department of Motor Vehicle identification card U.S. military discharge (DD 214) Current U.S. passport Current employer identification card	Certificate of birth Adoption papers Custody agreement Health and Human Services ID Certified school records

If a document submitted by a family is illegible for any reason or otherwise questionable, more than one of these documents may be required.

If none of these documents can be provided and at the CDA's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to the CDA and be signed in the presence of a CDA representative or CDA notary public.

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

7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and Notice PIH 2012-10]

The family must provide documentation of a valid social security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include, existing residents who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

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

- An original SSN card issued by the Social Security Administration (SSA)
- An original SSA-issued document, which contains the name and SSN of the individual
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual

The CDA may only reject documentation of a SSN provided by an applicant or resident if the document is not an original document, if the original document has been altered, mutilated, is illegible, or if the document appears to be forged.

CDA Policy

The CDA will explain to the applicant or resident the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to the CDA within 90 days.

If an **applicant** family includes a child under 6 years of age who joined the household within the 6 months prior to the date of program admission, an otherwise eligible family may be admitted and must provide documentation of the child's SSN within 90 days. A 90-day extension will be granted if the CDA determines that the applicant's failure to comply was due to unforeseen circumstances and was outside of their control.

When a **resident** requests to add a new household member who is at least 6 years of age, or who is under the age of 6 and has an SSN, the resident must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. The CDA may not add the new household member until such documentation is provided.

When a **resident** requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the resident must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if the CDA determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control. During the period the CDA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

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

CDA Policy

The CDA will verify each disclosed SSN by:

- Obtaining documentation from applicants and residents that is acceptable as evidence ofsocial security numbers
- Making a copy of the original documentation submitted, returning it to the individual,and retaining a copy in the file folder

Once the individual's verification status is classified as "verified," the CDA may, at its discretion, remove and destroy copies of documentation accepted as evidence of social security numbers. The retention of the EIV Summary Report or Income Report is adequate documentation of an individual's SSN.

7-II.C. DOCUMENTATION OF AGE

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

CDA Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, the CDA will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

Age must be verified only once during continuously-assisted occupancy.

7-II.D. FAMILY RELATIONSHIPS

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

CDA Policy

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

Marriage

CDA Policy

Certification by the head of household is normally sufficient verification. If the CDA has reasonable doubts about a marital relationship, the CDA will require the family to document the marriage with a marriage certificate or other documentation to verify that the couple is married.

In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

Separation or Divorce

CDA Policy

Certification by the head of household is normally sufficient verification. If the CDA has reasonable doubts about a divorce or separation, the CDA will require the family to provide documentation of the divorce or separation with a certified copy of a divorce decree, signed by a court officer; a copy of a court-ordered maintenance or other court record; or other documentation that shows a couple is divorced or separated.

If no court document is available, documentation from a community-based agency will be accepted.

Absence of Adult Member

CDA Policy

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the

family (e.g., documentation of another address at which the person resides such as a lease or utility bill).

Foster Children and Foster Adults

CDA Policy

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

7-II.E. VERIFICATION OF STUDENT STATUS

CDA Policy

The CDA requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

- The family claims full-time student status for an adult other than the head, spouse, or cohead, or
- The family claims a child care deduction to enable a family member to further his or her education.

7-II.F. DOCUMENTATION OF DISABILITY

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

The CDA may make the following inquiries, provided it makes them of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability
- Inquiry about whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance
- Inquiry about whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

Family Members Receiving SSA Disability Benefits

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

CDA Policy

For family members claiming disability who receive disability payments from the SSA, the CDA

will attempt to obtain information about disability benefits through HUD's Enterprise Income Verification (EIV) system. If documentation is not available through HUD's EIV system, the CDA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member claiming disability status. If a family member is unable to provide the document, the CDA will ask the family to obtain a benefit verification letter either by calling SSA at 1-800-772-1213, or by requesting one from **www.ssa.gov**. Once the family receives the benefit verification letter, it will be required to provide the letter to the CDA.

Family Members Not Receiving SSA Disability Benefits

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

CDA Policy

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

7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]

Overview

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. See the Eligibility chapter for detailed discussion of eligibility requirements. This chapter (7) discusses HUD and CDA verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy [24 CFR 5.508(g)(5)]

U.S. Citizens and Nationals

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

The CDA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

CDA Policy

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

Eligible Immigrants

Documents Required

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-1 at the end of this chapter summarizes documents family members must provide.

CDA Verification [HCV GB, pp 5-3 and 5-7]

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this ACOP. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, the CDA must verify immigration status with the U.S. Citizenship and Immigration Services (USCIS).

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

7-II.H. VERIFICATION OF PREFERENCE STATUS

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

PART III: VERIFYING INCOME AND ASSETS

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

7-III.A. EARNED INCOME

Tips

CDA Policy

Unless tip income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.

Wages

CDA Policy

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

7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

CDA Policy

Business owners and self-employed persons will be required to provide:

- An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.
- All schedules completed for filing federal and local taxes in the preceding year
- If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules
- The CDA 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 CDA 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 CDA 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 CDA 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 9.

Social Security/SSI Benefits

CDA Policy

To verify the SS/SSI benefits of **applicants**, the CDA will request a current (dated within the last 120 days) SSA benefit verification letter from each family member who receives social security benefits. If a family member is unable to provide the document, the CDA will help the applicant request a benefit verification letter from SSA's Web site at www.socialsecurity.gov or ask the family to request one by calling SSA at 1-800-772-1213. Once the family has received the original benefit verification letter it will be required to provide the letter to the CDA.

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

7-III.D. ALIMONY OR CHILD SUPPORT

CDA Policy

The methods the CDA 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:

- Report showing the last 12 months of payments received.
- 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. ASSETS AND INCOME FROM ASSETS

Assets Disposed of for Less than Fair Market Value

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. The CDA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

CDA Policy

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

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

> Example 1: An elderly resident reported a $10,000 certificate of deposit at the last annual reexamination and the CDA verified this amount. Now the person reports that she has given this $10,000 to her son. The CDA 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 CDA will verify the value of this asset.

7-III.F. NET INCOME FROM RENTAL PROPERTY

CDA Policy

The family must provide:

- A current executed lease for the property that shows the rental amount or certification from the current tenant
- A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income). If schedule E was not prepared, the CDA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

7-III.G. RETIREMENT ACCOUNTS

CDA Policy

The CDA 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 CDA 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 CDA 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 CDA 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.H. INCOME FROM EXCLUDED SOURCES

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 CDA 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].

CDAs 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, CDAs have the option of requiring additional verification.

For partially excluded income, the CDA **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).

CDA Policy

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

The CDA will verify the source and amount of partially excluded income as described in Part I of this chapter.

7-III.I. ZERO ANNUAL INCOME STATUS

CDA Policy

The CDA will check UIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SS, SSI, earned income, etc. are not being received by families claiming to have zero annual income.

PART IV: VERIFYING MANDATORY DEDUCTIONS

7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

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

Dependent Deduction

See Chapter 6 (6-II.B.) for a full discussion of this deduction. The CDA will verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse or cohead of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

Elderly/Disabled Family Deduction

See the Eligibility chapter for a definition of elderly and disabled families and Chapter 6 (6-II.C.) for a discussion of the deduction. The CDA will verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

7-IV.B. MEDICAL EXPENSE DEDUCTION

Policies related to medical expenses are found in 6-II.D. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

CDA Policy

Medical expenses will be verified through:

- Written third-party documents provided by the family, such as pharmacy printouts or receipts.
- The CDA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The CDA will also accept evidence of monthly paymentsor total payments that will be due for medical expenses during the upcoming 12 months.
- Written third-party verification forms, if the family is unable to provide acceptable documentation.
- If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months

In addition, the CDA must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

Eligible Household

The medical expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62 or a person with disabilities. The CDA will verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter, and as described in Chapter 7 (7-IV.A) of this plan.

Qualified Expenses

To be eligible for the medical expenses deduction, the costs must qualify as medical expenses. See Chapter 6 (6-II.D.) for the CDA's policy on what counts as a medical expense.

Unreimbursed Expenses

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

CDA 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

CDA Policy

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

7-IV.C. DISABILITY ASSISTANCE EXPENSES

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

Attendant Care

CDA Policy

Expenses for attendant care will be verified through:

- Written third-party documents provided by the family, such as receipts or cancelledcheeks
- Third-party verification form signed by the provider, if family-provided documents arenot available
- If third-party or document review is not possible, written family certification as to costsanticipated to be incurred for the upcoming 12 months

Auxiliary Apparatus

CDA Policy

Expenses for auxiliary apparatus will be verified through:

- Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months
- Third-party verification form signed by the provider, if family-provided documents are not available
- If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months

In addition, the CDA must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- The expense permits a family member, or members, to work (as described in 6-II.E.).
- The expense is not reimbursed from another source (as described in 6-II.E.).

Family Member is a Person with Disabilities

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The CDA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

Family Member(s) Permitted to Work

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

CDA Policy

The CDA will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work. (See 6-II.E.) This documentation may be provided by the family.

If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

Unreimbursed Expenses

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

CDA Policy

The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

7-IV.D. CHILD CARE EXPENSES

Policies related to child care expenses are found in Chapter 6 (6-II.F). The amount of the deduction will be verified following the standard verification procedures described in Part I. In addition, the CDA must verify that:

- The child is eligible for care (12 or younger).
- The costs claimed are not reimbursed.
- The costs enable a family member to work, actively seek work, or further their education.
- The costs are for an allowable type of childcare.
- The costs are reasonable.

Eligible Child

To be eligible for the childcare deduction, the costs must be incurred for the care of a child under the age of 13. The CDA will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

Unreimbursed Expense

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

CDA Policy

The family and the care provider will be required to certify that the childcare expenses are not paid by or reimbursed to the family from any source.

Pursuing an Eligible Activity

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

CDA Policy

The CDA will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

Whenever possible the CDA will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases the CDA will request family-provided verification from the agency of the member's job seeking efforts to date and require the family to submit to the CDA any reports provided to the other agency.

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

Furthering Education

The CDA will ask that the academic or vocational educational institution verify that the person permitted to further his or her education by the childcare is enrolled and provide information

about the timing of classes for which the person is registered.

Gainful Employment

The CDA will seek third-party verification of the work schedule of the person who is permitted to work by the childcare. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

Allowable Type of Child Care

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

The CDA will verify that the type of child care selected by the family is allowable, as described in Chapter 6 (6-II.F).

The CDA will verify that the fees paid to the childcare provider cover only childcare costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

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

Reasonableness of Expenses

Only reasonable childcare costs can be deducted.

Exhibit 7-1: Summary of Documentation Requirements for Noncitizens
[HCV GB, pp. 5-9 and 5-10)

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

Elderly Noncitizens

- A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.

All other Noncitizens

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

- Form I-551 Alien Registration Receipt Card (for permanent resident aliens)
- Form I-94 Arrival-Departure Record annotated with one of the following:
  - "Admitted as a Refugee Pursuant to Section 207"
  - "Section 208" or "Asylum"
  - "Section 243(h)" or "Deportation stayed by Attorney General"
  - "Paroled Pursuant to Section 221 (d)(5) of the USCIS"

- Form I-94 Arrival-Departure Record with no annotation accompanied by:
  - A final court decision granting asylum (but only if no appeal is taken);
  - A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);
  - A court decision granting withholding of deportation; or
  - A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).

- Form I-688 Temporary Resident Card annotated "Section 245A" or Section 210".

Form I-688B Employment Authorization Card annotated "Provision of Law 274a. 12(11)" or "Provision of Law 274a.12".

- A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant's entitlement to the document has been verified; or
- Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register*

Exhibit 7-2: Excerpt from HUD Verification Guidance Notice (PIH 2004-01, pp. 11-14)

Upfront (UIV)	**Highest (Highly Recommended, highest level of third party verification)**
Written 3rd Party	**High (Mandatory if upfront income verification is not available or if UIV data differs substantially from tenant-reported information)**
Oral 3rd Party	**Medium (Mandatory if written third party verification is not available)**
Document Review	**Medium-Low (Use on provisional basis)**
Tenant Declaration	**Low (Use as a last resort)**

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	(LEVEL 4)	(LEVEL 3)	(LEVEL 2)	(LEVEL 1)
Wages/Salaries	Use of computer matching agreements with a State Wage Information Collection Agency (SWICA) to obtain wage information electronically, by mail or fax or in person.	The PHA mails, faxes, or e-mails a verification form directly to the independent sources to obtain wage information.	In the event the independent source does not respond to the PHA's written request for information, the PHA may contact the independent source by phone or make an in person visit to obtain the requested information.	When neither form of third party verification can be obtained, the PHA may accept original documents such as consecutive pay stubs (HUD recommends the PHA review at least three months of pay stubs, if employed by the same employer for three months or more), W-2 forms, etc. from the tenant. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares the family's total annual income from earnings. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.
	Agreements with private vendor agencies, such as The Work Number or ChoicePoint to obtain wage and salary information.	The PHA may have the tenant sign a Request for Earnings Statement from the SSA to confirm past earnings. The PHA mails the form to SSA and the statement will be sent to the address the PHA specifies on the form.			
	Use of HUD systems, when available.				
Verification of Employment Income: The PHA should always obtain as much information as possible about the employment, such as start date (new employment), termination date (previous employment), pay frequency, pay rate, anticipated pay increases in the next twelve months, year-to-date earnings, bonuses, overtime, company name, address and telephone number, name and position of the person completing the employment verification form. **Effective Date of Employment:** The PHA should always confirm start and termination dates of employment.					

Income Type	Upfront	Written Third-Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL5)	(LEVEL4)	(LEVEL 3)	(LEVEL2)	(LEVEL 1)
Self-Employment	Not Available	The FHA mails or faxes a verification form directly to sources identified by the family to obtain income information.	The FHA may call the source to obtain income information.	The FHA may accept any documents (i.e. tax returns, invoices and letters from customers) provided by the tenant to verify self-employment income. **Note:** The FHA must document in the tenant file, the reason third party verification was not obtained.	The FHA may accept a notarized statement or affidavit from the tenant that declares the family's total annual income from self-employment. **Note:** The FHA must document in the tenant file, the reason third party verification was not available.
Verification of Self-Employment Income: Typically, it is a challenge for FHAs to obtain third party verification of self-employment income. When third party verification is not available, the FHA should always request a notarized tenant declaration that includes a perjury statement.					
Social Security Benefits	Use of HUD Tenant Assessment System (TASS) to obtain current benefit history and discrepancy reports.	The FHA mails or faxes a verification form directly to the local SSA office to obtain social security benefit information. **(Not Available in some areas because SSA makes this data available through TASS. SSA encourages PHAsto use TASS.**	The FHA may call SSA, with the tenant on the line, to obtain current benefit amount. **(Not Available in some areas because SSA makes this data available through TASS. SSA encourages PHAs to use TASS.)**	The FHA may accept an original SSA Notice from the tenant. **Note:** The FHA must document in the tenant file, the reason third party verification was not available.	The FHA may accept a notarized statement or affidavit from the tenant that declares monthly social security benefits. **Note:** The FHA must document in the tenant file, the reason third party verification was not available.
Welfare Benefits	Use of computer matching agreements with the local Social Services Agency to obtain current benefit amount electronically, by mail or fax or in person.	The FHA mails, faxes, or e-mails a verification form directly to the local Social Services Agency to obtain welfare benefit information.	The FHA may call the local Social Services Agency to obtain current benefit amount	The FHA may review an original award notice or printout from the local Social Services Agency provided by the tenant. **Note:** The FHA must document in the tenant file, the reason third party verification was not available.	The FHA may accept a notarized statement or affidavit from the tenant that declares monthly welfare benefits. **Note:** The FHA must document in the tenant file, the reason third party verification was not available.

Income Type	Upfront (LEVEL5)	Written Third Party (LEVEL4)	Oral Third Party	Document Review (LEVEL2)	Tenant Declaration (LEVEL 1)
Child Support	Use of agreement with the local Child Support Enforcement Agency to obtain current child support amount and payment status electronically, by mail or fax or in person.	The FHA mails, faxes, or e-mails a verification form directly to the local Child Support Enforcement Agency or child support payer to obtain current child support amount and payments tatus.	The FHA may call the local Child Support Enforcement Agency or child support payer to obtain current child support amount and payment status.	The FHA may review an original court order, notice or printout from the local Child Support Enforcement Agency provided by the tenant to verify current child support amount and payment status. **Note:** The FHA must document in the tenant file, the reason third party verification was not available.	The FHA may accept a notarized statement or affidavit from the tenant that declares current child support amount and payment status. **Note:** The FHA must document in the tenant file, the reason third party verification was not available.
Unemployment Benefits	Use of computer matching agreements with a State Wage Information Collection Agency to obtain unemployment compensation electronically, by mail or fax or in erson. Use of HUD systems, when available.	The FHA mails, faxes, or e-mails a verification form directly to the State Wage Information Collection Agency to obtain unemployment compensation information.	The FHA may call the State Wage Information Collection Agency to obtain current benefit amount	The FHA may review an original benefit notice or unemployment check stub, or printout from the local State Wage Information Collection Agency provided by the tenant **Note:** The FHA must document in the tenant file, the reason third party verification was not available.	The FHA may accept a notarized statement or affidavit from the tenant that declares unemployment benefits **Note:** The FHA must document in the tenant file, the reason third party verification was not available.
Pensions	Use of computer matching agreements with a Federal, State, or Local Government Agency to obtain pension information electronically, by mail or fax or in person.	The FHA mails, faxes, or e-mails a verification form directly to the pension provider to obtain pens10n information.	The FHA may call the pension provider to obtain current benefit amount	The FHA may review an original benefit notice from the pension provider provided by the tenant **Note:** The FHA must document in the tenant file, the reason third party verification was not available.	The FHA may accept a notarized statement or affidavit from the tenant that declares monthly pension amounts. **Note:** The FHA must document in the tenant file, the reason third party verification was not available.

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	(LEVEL 4)	(LEVEL 3)	(LEVEL 2)	(LEVEL 1)
Assets	Use of cooperative agreements with sources to obtain asset and asset income information electronically, by mail or fax or in person.	The PHA mails, faxes, or emails a verification form directly to the source to obtain asset and asset income information.	The PHA may call the source to obtain asset and asset income information.	The PHA may review original documents provided by the tenant. **Note: The PHA must document in the tenant file, the reason third party verification was not available.**	The PHA may accept a notarized statement or affidavit from the tenant that declares assets and asset income. **Note: The PHA must document in the tenant file, the reason third party verification was not available.**
Comments	Whenever HUD makes available wage, unemployment, and SSA information, the PHA should use the information as part of the reexamination process. Failure to do so may result in disallowed costs during a RIM review.	**Note:** The independent source completes the form and returns the form directly to the PHA. Agency. The tenant should not hand carry documents to or from the independent source.	The PHA should document in the tenant file, the date and time of the telephone call or in person visit, along with the name and title of the person that verified the current income amount.		The PHA should use this verification method as a last resort, when all other verification methods are not possible or have been unsuccessful. **Notarized statement should include a perjury penalty statement.**
Note: The PHA must not pass verification costs along to the participant.					
Note: In cases where the PHA cannot reliably project annual income, the PHA may elect to complete regular interim reexaminations (this policy should be apart of the PHA's written policies.)					

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. If the PHA adopts a policy to accept this type of verification, the PHA must include 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 Tax 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.

CDA Policy

When available and applicable, the CDA will accept other programs' Safe Harbor determinations of income at annual reexamination to determine the family's total annual income. The CDA will still require third-party verification of all deductions such as the health and medical care expense or childcare expense deductions. Further, if the family is eligible for and claims the disability assistance expense or childcare 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 CDA 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 CDA will obtain third-party verification of all sources of income and assets (as applicable).

The CDA 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 CDA 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 CDA does not receive any acceptable income determination documentation or is unable to obtain documentation, then the CDA 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 CDA will use the most recent income determination, unless the family presents acceptable evidence that the CDA should consider an alternative verification from a different Safe Harbor source.

When the CDA 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 CDA. Depending on when the change occurred, the change may or may not impact the CDA's calculation of the family's total annual income. Changes that occur between the time the CDA receives the Safe Harbor documentation and the effective date of the family's annual reexamination will not be considered. If the family has a change in income that occurs after the annual reexamination effective date, the CDA will conduct an interim reexamination if the change meets the requirements for performing an interim reexamination as outlined in Chapter 9. In this case, the CDA 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.

CDA Policy

When the CDA does not use a Safe Harbor income determination from a federal assistance program to determine the family's annual income as outlined above, the PHA will obtain third-party verification as outlined in Notice PIH 2023-27 and Chapter 7 of this policy.

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 the HUD-published threshold, as listed in HUD's Inflation-Adjusted Values tables
- Expenses related to deductions from annual income; and
- Other factors that affect the determination of adjusted income.

HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general, HUD requires the PHA to use the most reliable form of verification that is available and to document the reasons when the PHA uses a lesser form of verification.

HUD developed a hierarchy that described verification documentation from most acceptable to least acceptable. The PHA must demonstrate efforts to obtain third-party verification prior to accepting self-certification except instances when self-certification is explicitly allowed.

In order of priority, the hierarchy is:

- Highest: Level 6: Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system
- Highest: Level 5: Up-front Income Verification (UIV) using a non-EIV system
- High: Level 4:
  - Written third-party verification from the source, also known as "tenant-provided verification"
  - Or EIV plus self-certification
- Medium: Level 3: Written third-party verification form
- Medium: Level 2: Oral third-party verification
- Low: Level 1: Self-certification (not third-party verification)

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

File Documentation

The PHA must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that the PHA has followed all of the verification policies set forth in this ACOP. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

7-I.E. LEVEL 5 AND 6 VERIFICATIONS: UP-FRONT INCOME VERIFICATION (UIV)

Up-front income verification (UIV) refers to the PHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits for a number of individuals. PHAs may use UIV sources before or during a family reexamination.

UIV will be used to the extent that these systems are available to the PHA.

There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until the PHA has independently verified the UIV information and the family has been granted the opportunity to contest any adverse findings through the PHA's informal review/hearing processes.

HUD's Enterprise Income Verification (EIV) System

PHAs must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during annual and streamlined reexaminations of family composition and income in accordance with 24 CFR 5.236 and Notice PIH 2023-27.

HUD's EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families.

The income validation tool (IVT) in EIV provides projections of discrepant income for wages, unemployment compensation, and SSA benefits pursuant to HUD's data sharing agreements with other departments.
The following policies apply to the use of HUD's EIV system.

EIV Income Report

PHAs are required to obtain an EIV Income Report for each family any time the PHA conducts an annual reexamination. However, PHAs are not required to use the EIV Income Report:

- At annual reexamination if the PHA used Safe Harbor verification from another means-tested federal assistance program to determine the family's income; or
- During any interim reexaminations.

The EIV Income Report is 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 in order for the report to be considered current.

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.

CDA 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 an EIV Income Report for all annual reexaminations for families as part of the regular reexamination process. The PHA will ensure that all EIV Income Reports are pulled within 120 days of the effective date of the annual reexamination.

Income 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 reports will be retained in resident files with the applicable annual reexamination documents or interim reexamination documents (if applicable) for the duration of tenancy.

When the PHA determines through EIV reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 15, Program Integrity.

New Hires Report [Notice PIH 2023-27]

The New Hires Report identifies participant families who have new employment within the last six months. The report is updated monthly.

PHAs must review this information at annual reexamination except when the PHA uses Safe Harbor verification from another means-tested federal assistance program to determine the family's income.

PHAs that do not require families to undergo interim reexaminations for earned income increases after an interim decrease are not required to review this report between a family's annual reexamination. If the PHA requires an interim for increases in earned income after an interim decrease, then the PHA must review the report quarterly after the family's interim decrease.

CDA Policy

In accordance with CDA policies in Chapter 9, the CDA 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 CDA will 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 the Department of Health and Human Services (HHS) or SSA records. This scenario does not mean that the tenant does not have any income. PHAs obtain written, third-party verification of any income reported by the tenant.

The PHA must identify in its policies and procedures when this report will be pulled [Notice PIH 2023-27].

CDA Policy

The CDA will generate the No Income Reported by HHS or SSA Report quarterly and will retain the report.

The CDA will re-verify the status of tenants identified on the report quarterly. Based on the information provided by the family and in EIV, the CDA may require that family members provide verifications or sign release forms to allow the CDA to obtain additional verification.

When the CDA determines through this report and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 15, Program Integrity.

EIV Identity Verification Report

The EIV system verifies resident identities against Social Security Administration (SSA) records. These records are compared to HUD data for a match on social security number, name, and date of birth.

PHAs are required to use EIV's *Identity Verification Report* on a monthly basis to improve the availability of income information in EIV [Notice PIH 2023-27].

When identity verification for a resident fails, a message will be displayed within the EIV system, and no income information will be displayed.

CDA Policy

The CDA will identify residents whose identity verification has failed by reviewing EIV's *Identity Verification Report* on a monthly basis.

The CDA will attempt to resolve discrepancies by obtaining appropriate documentation from the tenant. When the CDA determines that discrepancies exist as a result of CDA errors, such as spelling errors or incorrect birth dates, it will correct the errors promptly.

Deceased Tenants Reports [Notice PIH 2026-11-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 monthly.

When the Deceased Tenants Report identifies an individual as being deceased, or when PHAs receive information by other sources (e.g., reports from family or friends, presentation of an obituary), PHAs must request confirmation of the death within 24 hours of being notified of the death of a household member. The PHA must document in the tenant record their attempts to confirm the death. Requests for confirmation may be sent by mail, email, and/or hand delivery to the head of household. If the head of household is deceased and there are no other adult household members, the PHA should attempt to confirm the death with an emergency contact person.

PHAs may provide families or emergency contacts 30 days to respond to the PHA's request for a written confirmation of death. If the family does not respond within 30 days, then the PHA may presume that the information is accurate and proceed in removing the deceased tenant from the household.

PHAs must conduct a home visit to confirm the unit is not occupied.

If the deceased individual was the head of household and there are remaining family members who are eligible adults, the PHA must follow its administrative policies to determine whether the family continues to receive assistance with a new head of household and designate who the new head of household will be.

CDA Policy

If the deceased individual was the head of household and minors are the only remaining household members, the CDA will follow its policies regarding Caretakers for a Child in Section 6-I.B.

When the only remaining household member is the live-in aide, the live-in aide is not entitled or eligible for continued occupancy. The PHA may not designate the live-in aide as the new head of household or change the relation code on the Form HUD-50058.

Other EIV Reports [Notice PIH 2023-27]

The PHA is required to review the Multiple Subsidy Report at least quarterly and the Failed EIV Pre-Screening and Failed Verification (Failed SSA Identity Test) reports at least monthly.

Upfront Income Verification Using Non-HUD Systems

HUD encourages PHAs to utilize other upfront verification sources such as the Work Number and web-based state benefits systems.

CDA Policy

The CDA will inform all applicants and residents of its use of the following UIV resources:

HUD's EIV system

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.

CDA Policy

At annual reexamination, if the CDA 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 CDA will use EIV + self-certification as verification of employment income, provided the family agrees with the amounts listed in EIV.

The CDA will follow EIV security requirements as detailed in CDA policy in Section 7-I.A. Family Consent to Release of Information. If an adult family member other than the head of household fails to sign a consent form stating that their EIV income information may be shared with the head of household, the CDA will utilize EIV's "Print Household Member Information" feature to generate income reports addressed separately to each adult in the household. For example, if a household has two adults, the CDA will provide one report to the head of household and a separate report to the other adult member.

The CDA will use an average of the last two quarters of income listed in EIV to determine income from employment. The PHA will provide the adult family member with the information in EIV. The family member 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 member disagrees with using only the last two quarters of income listed in EIV, because of the seasonal or otherwise fluctuating nature of that family member's employment, the PHA will permit the family member to sign a self-certification stating that the average of all four quarters of income listed in EIV is accurate and representative of current annual income and use that amount for calculating annual income. If the family member disagrees and contends that the amount listed in EIV is not reflective of current income, or if less than two quarters are available in EIV, the CDA will use written third-party verification from the source as outlined below.

The CDA 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. The PHA may use the verification obtained during an interim reexamination for an annual reexamination if there have been no other changes to annual income since the interim reexamination. 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.

CDA Policy

In general, the CDA 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 CDA will not use this method if the CDA 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 CDA. However, for fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation.

The CDA 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 CDA determines that third-party documents provided by the family are not acceptable, the CDA 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 CDA will obtain one statement that reflects the current balance of the account.

When pay stubs are used, the CDA will require the family to provide the two most current, consecutive pay stubs.

At the CDA's discretion, if additional paystubs are needed due to the family's circumstances (e.g., sporadic income, fluctuating schedule, etc.), the CDA 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.

CDA Policy

Typically, the CDA 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 CDA may choose to obtain oral third-party verification without first attempting, and in lieu of, a written-third party verification form.

7-I.H. LEVEL 2: ORAL THIRD-PARTY VERIFICATION [Notice PIH 2023-27]

For third-party oral verification, PHAs contact sources identified by UIV techniques or by the family, by telephone or in person.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.

PHAs must document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

The PHA may skip this level of verification if they attempted written third-party verification via a form and the source did not respond and move directly to self-certification.

CDA Policy

In general, the CDA 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 CDA will accept self-certification from the family without attempting to obtain oral third-party verification.

However, if the CDA chooses to obtain oral third-party verification, the CDA will document in the file the date and time of the telephone call or visit, the name of the person contacted and the telephone number, as well as the information confirmed.

When Third-Party Verification is Not Required [Notice PIH 2023-27]

Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

CDA Policy

If the family cannot provide original documents, the CDA 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].

CDA Policy

The CDA will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

7-I.I. LEVEL 1: NON-THIRD-PARTY VERIFICATION TECHNIQUE: SELF-CERTIFICATION [Notice PIH 2023-27]

Non-third-party verification consists of a signed statement of reported income and/or expenses. This verification method should be used as a last resort when the PHA has not been successful in obtaining information via all other required verification techniques.

Self-certification, however, is an acceptable form of verification when:

- A source of income is fully excluded;
- Net family assets are less than or equal to the HUD-published threshold ($52,787 for 2026) and the PHA has adopted a policy to accept self-certification;
- The family declares that they do not have any present ownership in any real property;
- A family reports zero income;
- 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 verification for fixed sources of income.

When the PHA was required to obtain third-party verification but instead relies on self-certification, the family's file must be documented to explain why third-party verification was not available.
HUD does not require that a self-certification be notarized; however, HUD recommends including language on any self-certification to ensure the certifier understands the consequences of knowingly providing false information.

CDA 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 CDA.

The CDA 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 CDA 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)."

PART II: VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

CDA Policy

The CDA will require families to furnish verification of legal identity for each household member.

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
Certificate of birth, naturalization papers Church issued baptismal certificate Current, valid driver's license or Department of Motor Vehicle identification card U.S. military discharge (DD 214) Current U.S. passport Current government employer identification card with picture	Certificate of birth Adoption papers Custody agreement Health and Human Services ID Certified school records

If a document submitted by a family is illegible for any reason or otherwise questionable, more than one of these documents may be required.

If none of these documents can be provided and at the CDA's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to the CDA and be signed by the family member whose information or status is being verified.

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where the CDA has reason to doubt the identity of a person representing themselves to be a tenant or a member of a tenant family.

7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and Notice PIH 2023-27]

The family must provide documentation of a valid Social Security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include, existing residents who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

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

- An original SSN card issued by the Social Security Administration (SSA)
- An original SSA-issued document, which contains the name and SSN of the individual
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual

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.

CDA Policy

The CDA will verify an individual's SSN in the situations described above using the method described above as a last resort when no other forms of verification of the individual's SSN are available.

The CDA may only reject documentation of an SSN provided by an applicant or resident if the document is not an original document, if the original document has been altered, mutilated, is illegible, or if the document appears to be forged.

CDA Policy

The CDA will explain to the applicant or resident the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to the CDA within 90 days.

If an applicant family includes a child under 6 years of age who joined the household within the 6 months prior to the date of program admission, an otherwise eligible family may be admitted and must provide documentation of the child's SSN within 90 days. A 90-day extension will be granted if the PHA determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control.

CDA Policy

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

When a resident requests to add a new household member who is at least 6 years of age, or who is under the age of 6 and has an SSN, the resident must provide the complete and accurate SSN assigned to each new member at the time of reexamination, in addition to the documentation required to verify it. The CDA may not add the new household member until such documentation is provided.

When a resident requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the resident must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if the CDA determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control. During the period the CDA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

CDA Policy

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

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

CDA Policy

The CDA will verify each disclosed SSN by:

Obtaining documentation from applicants and residents that is acceptable as evidence of social security numbers

Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder

Once the individual's verification status is classified as "verified," the CDA may, at its discretion, remove and destroy copies of documentation accepted as evidence of social security numbers. The retention of the EIV Summary Report or Income Report is adequate documentation of an individual's SSN.

CDA Policy

Once an individual's status is classified as "verified" in HUD's EIV system, the CDA will not remove and destroy copies of documentation accepted as evidence of social security numbers.

7-II.C. DOCUMENTATION OF AGE

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

CDA Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, the CDA will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

Age must be verified only once during continuously assisted occupancy.

7-II.D. FAMILY RELATIONSHIPS

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

CDA Policy

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

Marriage

CDA Policy

Certification by the head of household is normally sufficient verification. If the CDA has reasonable doubts about a marital relationship, the CDA will require the family to document the marriage with a marriage certificate or other documentation to verify that the couple is married.

In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

Separation or Divorce

CDA Policy

Certification by the head of household is normally sufficient verification. If the CDA has reasonable doubts about a divorce or separation, the CDA will require the family to provide documentation of the divorce or separation with a certified copy of a divorce decree, signed by a court officer; a copy of a court-ordered maintenance or other court record; or other documentation that shows a couple is divorced or separated.

If no court document is available, documentation from a community-based agency will be accepted.

Absence of Adult Member

CDA Policy

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill), if the CDA so requests.

Foster Children and Foster Adults

CDA Policy

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

7-II.E. VERIFICATION OF STUDENT STATUS

CDA Policy

The CDA requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

- The family claims full-time student status for an adult other than the head, spouse, or cohead, or
- The family claims a childcare deduction to enable a family member to further their education.

7-II.F. DOCUMENTATION OF DISABILITY

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

The PHA may make the following inquiries, provided it makes them of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability
- Inquiry about whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance
- Inquiry about whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

Family Members Receiving SSA Disability Benefits

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

CDA Policy

For family members claiming disability who receive disability payments from the SSA, the CDA will attempt to obtain information about disability benefits through HUD's Enterprise Income Verification (EIV) system. If documentation is not available through HUD's EIV system, the CDA will request a current (dated within the appropriate benefit year) SSA benefit verification letter from each family member claiming disability status. If a family member is unable to provide the document, the CDA will ask the family to obtain a benefit verification letter either by calling SSA at 1-800-772-1213 or by requesting one from www.ssa.gov. Once the family receives the benefit verification letter, they will be required to provide the letter to the CDA.

Family Members Not Receiving SSA Disability Benefits

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

CDA Policy

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

7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]

Overview

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. See the Eligibility chapter for detailed discussion of eligibility requirements. This chapter (7) discusses HUD and PHA verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously assisted occupancy [24 CFR 5.508(g)(5)]

U.S. Citizens and Nationals

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.
The PHA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation. HUD strongly encourages PHAs to require that families provide proof of citizenship by such means as birth certificates, naturalization certificates, passports, or other documentation [HUD Secretary Letter 12/16/25].

CDA Policy

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

Eligible Immigrants

Documents Required

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-1 at the end of this chapter summarizes documents family members must provide.

PHA Verification [HCV GB, pp 5-3 and 5-7; HUD Secretary Letter 12/16/25]

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this ACOP. No further verification of eligible immigration status is required.

Family members under the age of 62 who claim to be eligible immigrants must provide supporting documentation of their immigration status and sign a verification consent form. Supporting documentation consists of documentation accepted by the U.S. Citizenship and Immigration Services (USCIS)—for example, a Form I-551 U.S. Permanent Resident Card.

The PHA must verify immigration status with the United States Citizenship and Immigration Services (USCIS). The primary method for verifying eligible immigration status is USCIS's automated system, Systematic Alien Verification for Entitlements (SAVE). The PHA must determine whether the applicant's status makes them eligible for assistance consistent with Section 214. Exhibit 7-2 at the end of this chapter provides information on eligibility for HUD assistance.

Where applicable, the PHA must retain documentation of SAVE verification in tenant files. If SAVE cannot confirm an individual's eligible immigration status, or if the response in SAVE verifies an immigration status that is not eligible for assistance, then the PHA must submit a request for secondary or additional verification to USCIS within 10 days of receiving the initial results. The PHA must scan and upload information to USCIS as needed or required to obtain a verification response.

If the secondary or additional verification fails, the PHA must notify the family and inform them of their right to file an appeal with USCIS. If the family wishes to exercise their right to file an appeal with USCIS, they must submit a written request to USCIS within 30 days of the notification. USCIS will render a decision to the family and forward a copy to the PHA.

Assistance must be denied when primary and secondary verification do not verify eligible immigration status and the family does not pursue a USCIS appeal or informal hearing rights, or decisions are rendered against the family through a USCIS appeal or informal hearing.

The PHA must not delay, deny, reduce, or terminate assistance because of a delay in the process of determining eligible status, unless the family causes the delay. While the PHA may not admit any individual prior to receiving required documentation, the PHA may elect to provide prorated assistance to the family prior to completing the verification process.

Family members who do not sign a declaration of their status or provide the required supporting documentation will be considered ineligible for housing assistance. The head of household must sign a statement listing all family members who do not claim to be citizens, nationals, or eligible immigrants, or whose status cannot be confirmed [HUD Secretary Letter 12/16/25].

7-II.H. VERIFICATION OF PREFERENCE STATUS

The PHA must verify any preferences claimed by an applicant that determined their placement on the waiting list.

CDA Policy

There are no additional preferences given

PART III: VERIFYING INCOME AND ASSETS

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

CDA Policy

The CDA is utilizing Safe Harbor income verifications in accordance with policies listed in 7-I.B. Therefore, when Safe Harbor determinations are used, policies on the verification of income and assets listed below will not apply. However, the CDA will follow policies listed below when:

The PHA does not accept Safe Harbor documentation;
The PHA is unable to obtain Safe Harbor documentation;
The family disputes the other program's income determination; or
The PHA is required to verify employment income to cap unreimbursed childcare and/or disability assistance expenses.

In the situations listed above, the below policies on the verification of income and assets will apply.

7-III.A. EARNED INCOME

Tips

CDA Policy

Unless tip income is included in a family member's W-2 by the employer or in UIV verification sources, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year or tips anticipated to be received in the coming year.

Wages

CDA Policy

When the CDA requires third-party verification of wages, 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.

CDA Policy

Business owners and self-employed persons will be required to provide:

Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.).

If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

For self-employed individuals who claim they do not have to file tax returns, the PHA will obtain a completed copy of IRS Form 4506-T to verify that no return has been filed.

For those employed in "gig employment" (i.e., those in formal agreements with on-demand companies such as Uber, Lyft, or DoorDash), the CDA will provide a format for the individual to declare their income and expenses. The PHA will also review the printed statement of monthly income from the applicable app for all hours worked and pay received as well as Schedule C of the individual's tax return and the corresponding IRS Form 1099 or 1099k.

The CDA 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 CDA 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 CDA 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 CDA 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 9.

Social Security/SSI Benefits

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 appropriate benefit year) 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 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 appropriate benefit year) 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 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.

CDA Policy

If an EIV income report must be provided to the family, the CDA will follow EIV security requirements as detailed in CDA policy in Section 7-I.A. Family Consent to Release of Information.

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.

CDA Policy

Verification will be obtained in the following order of priority:

- Copies of the receipts and/or payment stubs for the 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

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.

CDA Policy

The CDA will accept self-certification from the family stating that income will not be repeated in the coming year. However, the CDA 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 less than or equal to the HUD-published threshold listed in HUD's current year Inflation-Adjusted Values tables, the PHA may, but is not required to, accept the family's self-certification that the family's assets do not exceed the HUD-published threshold 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 these may be excluded from the calculation of net family assets (because the combined value of non-necessary personal property does not exceed the HUD-published threshold), 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 net value over the HUD-published threshold, the PHA may not rely on the family's self-certification. Third-party verification of assets is required when net family assets exceed the HUD-published threshold.

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.

CDA Policy

The CDA will not accept the family's self-certification of the value of family assets and anticipated asset income.

The family will be required to provide third-party verification of net family assets every year.

In determining the value of checking or savings accounts, the CDA 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 CDA 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); Notice PIH 2023-27]

The PHA must determine whether a family has present ownership in real property that is suitable for occupancy for purposes of determining whether the family is compliant with the asset limitation described in Chapters 3 and 13. The PHA may accept a self-certification from the family stating that the family does not have any present ownership in any real property. If the family certifies that they do not have any present ownership interest in real property, the PHA may take that as sufficient to determine the family is not out of compliance with the real property restriction. If the family declares they have present ownership in real property, the PHA must obtain third-party verification of the family's legal right to reside in the property, the effective legal authority to sell the property, and whether the property is suitable for occupancy by the family as a residence.

CDA Policy

The CDA will accept self-certification from the family stating that the family does not have any present ownership in any real property. The certification 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 present ownership in real property, the CDA will obtain third-party verification of the following factors: whether the family has the legal right to reside in the property; whether the family has effective legal authority to sell the property; and whether the property is suitable for occupancy by the family as a residence. However, in cases where a family member is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the PHA will comply with confidentiality requirements under 24 CFR 5.2007 and will accept a self-certification.

7-III.G. NET INCOME FROM RENTAL PROPERTY

CDA Policy

The family must provide:

- A current executed lease for the property that shows the rental amount or certification from the current tenant
- A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income), along with proof of filing.
- If schedule E was not prepared, the CDA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

7-III.H. 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 less than or equal to the HUD-published threshold listed in HUD's current year Inflation-Adjusted Values tables ($52,787 for 2026), 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 the HUD-published threshold.

7-III.I. RETIREMENT ACCOUNTS

CDA Policy

The CDA 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.J. INCOME FROM EXCLUDED SOURCES [Notice PIH 2023-27]

A detailed discussion of excluded income is provided in Chapter 6, Part I.

HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

For fully excluded income, the PHA is **not** required to verify the income using third-party verification, document why third-party verification is not available, or report the income on the form HUD-50058. *Fully excluded income* is defined as income where the entire amount qualifies to be excluded from the annual income determination in accordance with 24 CFR 5.609(b) and any *Federal Register* notice on mandatory exclusions issued by HUD (for example, food stamps, earned income of a minor, or foster care funds).

PHAs may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional documentation. However, if there 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 form HUD-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 other than the head of household, spouse, or cohead).

CDA Policy

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

The CDA will verify the source and amount of partially excluded income as described in Part 1 of this chapter.

7-III.K. ZERO INCOME FAMILIES [Notice PIH 2023-27]

PHAs have discretion to establish reasonable procedures to manage the risk of unreported income, such as asking families to complete a zero-income worksheet at admission or periodically after admission to determine if they have any sources of unreported income or searching any UIV sources for unreported income.

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 may accept a self-certification of zero income from the family without taking any additional steps to verify zero reported income. HUD does not require such self-certifications be notarized.

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.

CDA Policy

The CDA 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, earned income, child support, etc. are not being received by families claiming to have zero annual income.

The CDA 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 CDA will verify the income in accordance with the policies in this chapter prior to including the income in the family's annual income.

The CDA will only conduct interims in accordance with CDA policy in Chapter 9.

7-III.L. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9)]

The regulations under HOTMA distinguish between two categories of student financial assistance paid to both full-time and part-time students. Assistance received under Section 479B of the Higher Education Act (HEA) is excluded. Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education not otherwise excluded by the federally mandated income exclusions are included [24 CFR 5.609(b)(9)(ii)].

CDA Policy

The CDA 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 CDA 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. The CDA will not request verification of actual covered costs when the student's only source of assistance falls under Title IV of the HEA.

If the CDA is unable to obtain third-party written verification of the requested information, the CDA will pursue other forms of verification following the verification hierarchy in section 7-I.B.

PART IV: VERIFYING MANDATORY DEDUCTIONS

7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

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

Dependent Deduction

See Chapter 6 for a full discussion of this deduction. The PHA will verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse or cohead of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full-time student

Elderly/Disabled Family Deduction

See the Eligibility chapter for a definition of elderly and disabled families and Chapter 6 for a discussion of the deduction. The PHA will verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

7-IV.B. HEALTH AND MEDICAL CARE EXPENSE DEDUCTION

Policies related to medical expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I.

The PHA must comply with the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191, 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed health and medical care expenses. The PHA may not request documentation beyond what is sufficient to determine anticipated health and medical care costs. Before placing bills and documentation in the tenant file, the PHA must redact all personally identifiable information [FR Notice 2/14/23].

Amount of Expense

CDA Policy

Medical expenses will be verified through:

Written third-party documents provided by the family, such as pharmacy printouts or receipts.

The PHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The PHA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

Written third-party verification forms if the family is unable to provide acceptable documentation.

If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months.

Before placing bills and documentation in the tenant file, the CDA will redact all personally identifiable information.

If the CDA 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 CDA 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 CDA 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 CDA must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified health and medical care expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

Eligible Household

The health and medical care expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62 or a person with disabilities. The PHA will verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter, and as described in Chapter 7 (7-IV.A) of this plan.

Qualified Expenses

To be eligible for the health and medical care expense deduction, the costs must qualify as medical expenses. See Chapter 6 for the PHA's policy on what counts as a medical expense.

Unreimbursed Expenses

To be eligible for the health and medical care expense deduction, the costs must not be reimbursed by another source.

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

CDA Policy

When anticipated costs are related to on-going payment of medical bills incurred in past years, the PHA will verify:

- The anticipated repayment schedule
- The amounts paid in the past, and
- Whether the amounts to be repaid have been deducted from the family's annual income in past years

7-IV.C. DISABILITY ASSISTANCE EXPENSES

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

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

CDA Policy

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.
- 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 CDA will redact all personally identifiable information.

If the CDA 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 CDA 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 CDA 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 CDA include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

Auxiliary Apparatus

CDA Policy

Expenses for auxiliary apparatus will be verified through:

- Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.
- Third-party verification form signed by the provider, if family-provided documents are not available.
- If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months.

In addition, the PHA must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- The expense permits a family member, or members, to work (as described in Chapter 6.).
- The expense is not reimbursed from another source (as described in Chapter 6.).

Family Member is a Person with Disabilities

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The PHA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

Family Member(s) Permitted to Work

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

CDA Policy

The CDA will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.). This documentation may be provided by the family.

If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

Unreimbursed Expenses

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

CDA Policy

The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

7-IV.D. CHILDCARE EXPENSES

Policies related to childcare expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I. In addition, the PHA must verify that:

- The child is eligible for care under the age of 13).
- The costs claimed are not reimbursed.
- The costs enable a family member to work, actively seek work, or further their education.
- The costs are for an allowable type of childcare.
- The costs are reasonable.

Eligible Child

To be eligible for the childcare deduction, the costs must be incurred for the care of a child under the age of 13. The PHA will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

Unreimbursed Expense

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

CDA Policy

The family and the care provider will be required to certify that the childcare expenses are not paid by or reimbursed to the family from any source.

Pursuing an Eligible Activity

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

CDA Policy

Information to be Gathered

The CDA will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

Whenever possible the CDA will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases the CDA will request family-provided verification from the agency of the member's job seeking efforts to date and require the family to submit to the CDA any reports provided to the other agency.

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

Furthering Education

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

Gainful Employment

The CDA will seek third-party verification of the work schedule of the person who is permitted to work by the childcare. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

Allowable Type of Childcare

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

CDA Policy

- The CDA will verify that the type of childcare selected by the family is allowable, as described in Chapter 6.
- The CDA will verify that the fees paid to the childcare provider cover only childcare costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).
- The CDA will verify that the childcare provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

Reasonableness of Expenses

Only reasonable childcare costs can be deducted.

CDA Policy

- The actual costs the family incurs will be compared with the CDA's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.
- If the family presents a justification for costs that exceed typical costs in the area, the CDA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

Exhibit 7-1: Summary of Documentation Requirements for Noncitizens [HCV GB, pp. 5-9 and 5-10)

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

Elderly Noncitizens

- A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.

All other Noncitizens

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

- Form I-551 Alien Registration Receipt Card (for permanent resident aliens)
- Form I-94 Arrival-Departure Record annotated with one of the following:
  - "Admitted as a Refugee Pursuant to Section 207"
  - "Section 208" or "Asylum"
  - "Section 243(h)" or "Deportation stayed by Attorney General"
  - "Paroled Pursuant to Section 221 (d)(5) of the USCIS"

- Form I-94 Arrival-Departure Record with no annotation accompanied by:
  - A final court decision granting asylum (but only if no appeal is taken);
  - A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);
  - A court decision granting withholding of deportation; or
  - A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).

- Form I-688 Temporary Resident Card annotated "Section 245A" or Section 210".

Form I-688B Employment Authorization Card annotated "Provision of Law 274a. 12(11)" or "Provision of Law 274a.12".

- A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant's entitlement to the document has been verified; or
- Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register*

Chapter 8

LEASING AND INSPECTIONS

[24 CFR 5, Subpart G; 24 CFR 966, Subpart A]

INTRODUCTION

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

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

This chapter is divided into two parts as follows:

Part I: Leasing. This part describes pre-leasing activities and the CDA's policies pertaining to lease execution, lease modification, and payments under the lease.

Part II: Inspections. This part describes the CDA's policies for inspecting dwelling units.

PART I: LEASING

8-I.A. OVERVIEW

An eligible family may occupy a public housing dwelling unit under the terms of a lease. The lease must meet all regulatory requirements, and must also comply with applicable state and local laws and codes.

The term of the lease must be for a period of 12 months. The lease must be renewed automatically for another 12-month term, except that the CDA may not renew the lease if the family has violated the community service requirement [24 CFR 966.4(a)(2)].

Part I of this chapter contains regulatory information on leasing, where applicable, as well as the CDA's leasing policies.

8-I.B. LEASE ORIENTATION

CDA Policy

After unit acceptance but prior to execution of lease, a CDA representative will conduct a lease orientation with the family. The head of household, spouse, and all members over the age of 18 are required to attend.

Orientation Agenda

CDA Policy

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

- A copy of the lease
- A copy of the Resident Handbook
- A copy of the CDA's schedule of maintenance charges
- A copy of "Is Fraud Worth It?" (form HUD-1141-OIG), which explains the types ofactions a family must avoid and the penalties for program abuse
- A copy of "What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2010-19
- A copy of the VAWA notice of occupancy rights (see section 16-VII.C)
- A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, SexualAssault, or Stalking
- A copy of the CDA's smoke-free policy

Topics to be discussed and explained to all families include:

- Applicable deposits and all other charges
- Review and explanation of lease provisions
- Unit maintenance requests and work orders
- The CDA's interim reporting requirements
- Review and explanation of occupancy forms

- Community service requirements
- Family choice of rent
- VAWA protections
- Smoke-free policies

8-I.C. EXECUTION OF LEASE

The lease must be executed by the tenant and the CDA, except for automatic renewals of a lease [24 CFR 966.4(a)(3)].

A lease is executed at the time of admission for all new residents. A new lease is also executed at the time of transfer from one CDA unit to another.

The lease must state the composition of the household as approved by the CDA (family members and any CDA-approved live-in aide) [24 CFR 966.4(a)(1)(v)]. See Section 8-I.D. for policies regarding changes in family composition during the lease term.

CDA Policy

The head of household, spouse or cohead, and all other adult members of the household will be required to sign the public housing lease prior to admission. An appointment will be scheduled for the parties to execute the lease. The head of household will be provided a copy of the executed lease and the CDA will retain a copy in the resident's file.

The live-in aide is not a member of the assisted family and does not sign the lease.

HUD regulations do not require the live-in aide to sign the documentation suggested here.

The purpose is to document the live-in aide's understanding that he or she is not entitled to assistance from the CDA.

CDA Policy

Files for households that include a live-in aide will contain file documentation signed by the live-in aide, that the live-in aide is not a party to the lease and is not entitled to CDA assistance. The live-in aide is only approved to live in the unit while serving as the care attendant for the family member who requires the care.

8-I.D. MODIFICATIONS TO THE LEASE

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

Modifications to the Lease Form

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

After proposed changes have been incorporated into the lease and approved by the Board, each family must be notified at least 60 days in advance of the effective date of the new lease or lease revision. A resident's refusal to accept permissible and reasonable lease modifications that are made in accordance with HUD requirements, or are required by HUD, is grounds for termination

of tenancy [24 CFR 966.4(l)(2)(iii)(E)].

CDA Policy

The family will have 30 days to accept the revised lease. If the family does not accept the offer of the revised lease within that 30 day timeframe, the family's tenancy will be terminated in accordance with the policies in Chapter 13.

Schedules of special charges and rules and regulations are subject to modification or revision. Because these schedules are incorporated into the lease by reference, residents and resident organizations must be provided at least thirty days written notice of the reason(s) for any proposed modifications or revisions, and must be given an opportunity to present written comments. The notice must be delivered directly or mailed to each tenant; or posted in at least three conspicuous places within each structure or building in which the affected dwelling units are located, as well as in a conspicuous place at the project office, if any, or if none, a similar central business location within the project. Comments must be taken into consideration before any proposed modifications or revisions become effective [24 CFR 966.5].

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

CDA Policy

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

Other Modifications

CDA Policy

The lease and/or lease addendum will be amended to reflect all changes in family composition approved by CDA prior to execution.

Policies governing when and how changes in family composition must be reported are contained in Chapter 9, Reexaminations.

8-I.E. SECURITY DEPOSITS [24 CFR 966.4(b)(5)]

At the option of the CDA, the lease may require security deposits. The amount of the security deposit cannot exceed one month's rent or a reasonable fixed amount as determined by the CDA. The CDA may allow for gradual accumulation of the security deposit by the family, or the family may be required to pay the security deposit in full prior to occupancy. Subject to applicable laws, interest earned on security deposits may be refunded to the tenant after vacating the unit, or used for tenant services or activities.

CDA Policy

Security Deposit

Each resident is required to pay a security deposit in an amount determined by the CDA. The security deposit will be held until the resident's lease end date and will be returned according to Minnesota Landlord and Resident Statute Chapter 504B.178:

- The security deposit may not be used to pay charges during occupancy
- The security deposit for residents at Colleen Loney Manor will be $325.00 or equal toone month's rent, whichever is greater.
- The security deposit for scattered site residents will be $500.00 or equal to one month'srent, whichever is greater.

Pet Deposit

- Resident agrees to pay an additional $500 pet deposit, when applicable, to be used by management at the termination of resident's lease toward reimbursement of the cost ofrepairing any damages to the dwelling unit caused by the pet.

8-I.F. PAYMENTS UNDER THE LEASE

Rent Payments [24 CFR 966.4(b)(1)]

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

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

CDA Policy

The resident rent is due and payable to the CDA on the first of every month.

If a resident's rent changes, the CDA will notify the family of the new amount and the effective date by sending a "Notice of Rent Adjustment" which will become an attachment to the lease.

Late Fees and Nonpayment

At the option of the CDA, the lease may provide for payment of penalties when the family is late in paying tenant rent [24 CFR 966.4(b)(3)].

The lease must provide that late payment fees are not due and collectible until two weeks after the CDA gives written notice of the charges. The written notice is considered an adverse action, and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right for a hearing under the CDA grievance procedures. The CDA must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

CDA Policy

If the family fails to pay their rent by the fifth day of the month, a 14 day Notice to Vacate will be issued to the resident for failure to pay rent, demanding payment in full or the surrender of the premises.

In addition, if the resident fails to make payment by the end of office hours on the fifth day of the month, a late fee of 8% of overdue rent with a maximum of $40.00 will be charged. Notices of

late fees will be in accordance with requirements regarding notices of adverse action. Charges are due and payable 14 calendar days after billing.

When a check is returned for insufficient funds or is written on a closed account, the rent will be considered unpaid and a returned check fee of $20.00 will be charged to the family.

Excess Utility Charges

If the CDA charges the tenant for consumption of excess utilities, the lease must state the basis for the determination of such charges. The imposition of charges for consumption of excess utilities is permissible only if the charges are determined by an individual check meter servicing the leased unit or result from the use of major tenant-supplied appliances [24 CFR 966.4(b)(2)].

Schedules of special charges for utilities that are required to be incorporated in the lease by reference must be publicly posted in a conspicuous manner in the development office and must be furnished to applicants and tenants on request [24 CFR 966.5].

The lease must provide that charges for excess utility consumption are not due and collectible until two weeks after the CDA gives written notice of the charges. The written notice is considered an adverse action, and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right to a hearing under the CDA grievance procedures. The CDA must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

CDA Policy

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

Nonpayment of excess utility charges and other utility charges is a violation of the lease and is grounds for eviction.

Maintenance and Damage Charges

If the CDA charges the tenant for maintenance and repair beyond normal wear and tear, the lease must state the basis for the determination of such charges [24 CFR 966.4(b)(2)].

Schedules of special charges for services and repairs which are required to be incorporated in the lease by reference must be publicly posted in a conspicuous manner in the development office and must be furnished to applicants and tenants on request [24 CFR 966.5].

The lease must provide that charges for maintenance and repair beyond normal wear and tear are not due and collectible until two weeks after the CDA gives written notice of the charges. The written notice is considered an adverse action, and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and

inform the family of their right for a hearing under the CDA grievance procedures. The CDA must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

CDA Policy

When applicable, families will be charged for maintenance and/or damages according to the CDA's current schedule. Work that is not covered in the schedule will be charged based on the actual cost of labor and materials to make needed repairs (including overtime, if applicable).

Notices of maintenance and damage charges will be mailed monthly and will be in accordance with requirements regarding notices of adverse actions. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the CDA may not take action for nonpayment of the charges until the conclusion of the grievance process.

Nonpayment of maintenance and damage charges is a violation of the lease and is grounds for lease termination.

PART II: INSPECTIONS

8-II.A. OVERVIEW

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

8-II.B. TYPES OF INSPECTIONS

Move-In Inspections [24 CFR 966.4(i)]

The lease must require the CDA and the family to inspect the dwelling unit prior to occupancy in order to determine the condition of the unit and equipment in the unit. A copy of the initial inspection, signed by the CDA and the tenant, must be provided to the tenant and retained in the resident file.

CDA Policy

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

Move-Out Inspections [24 CFR 966.4(i)]

The CDA must inspect the unit at the time the resident vacates the unit and must allow the resident to participate in the inspection if he or she wishes, unless the tenant vacates without notice to the CDA. The CDA must provide to the tenant a statement of any charges to be made for maintenance and damage beyond normal wear and tear.

The difference between the condition of the unit at move-in and move-out establishes the basis for any charges against the security deposit so long as the work needed exceeds that for normal wear and tear.

CDA Policy

When applicable, the CDA will provide the resident with a statement of charges to be made for maintenance and damage beyond normal wear and tear, within 21 days of the lease end date.

Annual Inspections [24 CFR 5.705]

Section 6(f)(3) of the United States Housing Act of 1937 requires that CDAs inspect each public housing project annually to ensure that the project's units are maintained in decent, safe, and sanitary condition. The CDA shall continue using the Uniform Physical Condition Standards (UPCS) in 24 CFR 5, Subpart G, Physical Condition Standards and Inspection Requirements, to conduct annual project inspections. These standards address the inspection of the site area, building systems and components, and dwelling units.

CDA Policy

The CDA will inspect all occupied units annually using HUD's Uniform Physical Condition Standards (UPCS).

Quality Control Inspections

The purpose of quality control inspections is to assure that all defects were identified in the original inspection, and that repairs were completed at an acceptable level of craftsmanship and within an acceptable time frame

CDA Policy

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

Special Inspections

CDA staff may conduct a special inspection for any of the following reasons:

- Housekeeping/Unit condition
- Suspected lease violation
- Preventive maintenance
- Routine maintenance
- There is reasonable cause to believe an emergency exists

Other Inspections

CDA Policy

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

8-II.C. NOTICE AND SCHEDULING OF INSPECTIONS

Notice of Entry

Non-emergency Entries [24 CFR 966.4(j)(1)]

The CDA may enter the unit, with reasonable advance notification to perform routine inspections and maintenance, make improvements and repairs, or to show the unit for re-leasing. A written statement specifying the purpose of the CDA entry delivered to the dwelling unit at least two days before such entry is considered reasonable advance notification.

CDA Policy

The CDA will notify the resident in writing at least 24-48 hours prior to any non-emergency inspection.

For regular annual inspections, staff will send the family a letter 7-10 business days prior notifying them of the inspection date.

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

Emergency Entries [24 CFR 966.4(j)(2)]

The CDA may enter the dwelling unit at any time without advance notice when there is reasonable cause to believe that an emergency exists. If no adult household member is present at the time of an emergency entry, the CDA must leave a written statement showing the date, time and purpose of the entry prior to leaving the dwelling unit.

Scheduling of Inspections

CDA Policy

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

Attendance at Inspections

Residents are required to be present for move-in inspections [24 CFR 966.4(i)]. There is no such requirement for other types of inspections.

CDA Policy

Other than the move in inspection, the resident is not required to be present for inspections, but may attend if he or she chooses.

If no one is at home at the time of the inspection, the inspector will enter the unit and conduct the inspection.

8-II.D. INSPECTION RESULTS

The CDA is obligated to maintain dwelling units and the project in decent, safe and sanitary condition and to make necessary repairs to dwelling units [24 CFR 966.4(e)].

Emergency Repairs [24 CFR 966.4(h)]

If the unit is damaged to the extent that conditions are created which are hazardous to the life, health, or safety of the occupants, the tenant must immediately notify the CDA of the damage, and the CDA must make repairs within a reasonable time frame.

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

If the CDA cannot make repairs quickly, the CDA must offer the family standard alternative accommodations. If the CDA can neither repair the defect within a reasonable time frame nor offer alternative housing, rent shall be abated in proportion to the seriousness of the damage and loss in value as a dwelling. Rent shall not be abated if the damage was caused by a household member or guest, or if the resident rejects the alternative accommodations.

CDA Policy

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

- Any condition that jeopardizes the security of the unit

- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger offalling
- Natural or LP gas or fuel oil leaks
- Any electrical problem or condition that could result in shock or fire
- Absence of a working heating system when outside temperature is below 60 degreesFahrenheit
- Conditions that present the imminent possibility of injury
- Obstacles that prevent safe entrance or exit from the unit
- Absence of a functioning toilet in the unit
- Inoperable smoke detectors (does not include low battery alarms)

Non-emergency Repairs

CDA Policy

The CDA will correct non-life threatening health and safety defects according to the CDA's maintenance plan. If the CDA is unable to make repairs within that period due to circumstances beyond the CDA's control (e.g. required parts or services are not available, weather conditions, etc.) the CDA will notify the family of an estimated date of completion.

The family must allow the CDA access to the unit to make repairs.

Resident-Caused Damages

CDA Policy

Damages to the unit beyond normal wear and tear will be billed to the resident in accordance with the policies in 8-I.G., Maintenance and Damage Charges.

Repeated or excessive damages to the unit beyond normal wear and tear will be considered a serious or repeated violation of the lease

Housekeeping

CDA Policy

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

A reinspection will be conducted within 30 days to confirm that the resident has complied with the requirement to abate the problem. Failure to abate the problem or allow for a reinspection is considered a violation of the lease and may result in termination of tenancy in accordance with Chapter 13.

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

Dakota County CDA's
PUBLIC HOUSING SMOKE-FREE POLICY

In accordance with HUD regulations, the Dakota County Community Development Agency (CDA) has adopted these smoke-free policies. The policies are effective as of June 1, 2018.

Due to the increased risk of fire, increased maintenance costs, and the known health effects of secondhand smoke, smoking is prohibited in all living units and interior areas, including but not limited to hallways, rental offices, community rooms, laundry rooms, and similar structures. Smoking is not prohibited in designated outdoor smoking areas (Colleen Loney Manor) or within 25 feet from the home or any permanent structure such as a garage, shed, and playground areas (Public Housing Scattered sites and townhome developments).

This policy applies to all employees, residents, household members, guests, and service persons. Residents are responsible for ensuring that household members, guests and service persons comply with this rule.

The term "smoking" means any inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other prohibited tobacco product in any manner or any form including water pipes and hookahs, Electronic nicotine delivery systems (ENDS) include e-cigarettes, nicotine inhalers, and vaping devices.

Violation of the smoke-free policy constitutes a violation of the terms of the public housing lease. Consequences of lease violations may include termination of tenancy.

Designated Smoking Areas
Dakota County CDA has established designated smoking areas at Colleen Loney Manor. Residents using the designated smoking areas must extinguish all smoking materials and dispose of them safely in receptacles provided for that purpose.

Effective Date
The smoke-free policy will be effective for all residents, household members, employees, guests, and service persons on June 1, 2018. Regardless of the lease renewal date, all residents must be in compliance with the smoke-free policy no later than June 1, 2018.

Enforcement
The CDA must enforce smoke-free policies when a resident is in violation of the policy. When enforcing the lease, the CDA will provide Public Housing residents due process and allow them to exercise their right to an informal and formal hearing. The CDA will not evict a resident for a single violation of this policy. As such, the CDA will implement a graduated enforcement action plan. Prior to pursuing eviction for violation of the smoke-free policy, the CDA will follow the enforcement action plan (see below). Resident termination and eviction will be pursued only as a last resort.

Enforcement Action Plan
The CDA shall give a resident two (2) opportunities to remedy non-compliance with the smoke-free policy. The following is an outline of the enforcement procedure:

1st Infraction: Management will have an informal meeting with the resident and issue a written Notice of Non-Compliance to the resident that will remind the resident of the smoke-free policy and their obligation to comply with the policy in accordance with their lease agreement. The informal meeting may include a telephone conversation and/or an in-person conversation at the building office or other designated location. Management will also provide cessation material to inform residents of the resources available to them.

2nd Infraction: Management will issue a Second Notice of Non-Compliance in writing and have a formal meeting with the resident to review this policy, citing potential consequences for future violations of their lease agreement. Management will require the resident to sign a Stipulation Agreement. In addition, cessation material will be given as a resource to the resident.

3rd Infraction: Once a resident has incurred a third violation, the matter will be treated as a breach of the lease agreement and management will issue a 60-day notice to vacate. Legal action may be taken for violation of the smoke-free policy.

At each stage in the enforcement procedure, CDA staff will seek to remind non-compliant residents about the opportunity to participate in a smoking cessation programs, although this reminder shall not be a prerequisite to enforcement.

Reasonable Accommodation
Addiction to nicotine or smoking is not a protected class, and the CDA will not provide a reasonable accommodation for persons to smoke in their unit or within 25 feet of the property.

Dakota County CDA's
MEDICAL MARAJUANA POLICY

Medical Marijuana use at Dakota CDA owned properties:

Dakota County CDA's policy is that medical marijuana is in violation of the agency's Housing Lease. The lease states:

Criminal and Drug-Related Activity

Tenant, members of Tenant's household, guests or other person's under Tenant's control shall not:
Engage in any criminal activity that threatens the health, safety, or right ofpeaceful enjoyment of other residents, neighbors or Management personnel; or

Engage in any drug-related criminal activity on or off Management property (Theterm "drug-related criminal activity" means the illegal manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute or use a controlled substance (as defined in Section 102 of the Controlled Substance Act [21 U.S.C. 802] or drug paraphernalia.); or

Engage in any abuse or pattern of abuse of alcohol that may interfere with the health, safety, or right of peaceful enjoyment by other residents, neighbors or Management personnel.

The occurrence of any activity identified in paragraphs U (1), (2) or (3) above shall constitute good cause for the termination of the tenancy and eviction of the Tenant from the Premises.

The Controlled Substance Act categorizes marijuana as a Schedule 1 substance. Since the Controlled Substance Act prohibits all forms of marijuana use, the use of "medical marijuana" is illegal under Federal Law, even if it is permitted under State law.

Further, we will not permit or approve the use of medical marijuana as a reasonable accommodation to be an exception to our Lease requirements or as a substance that may be "vaped" contrary to our Smoke Free Lease Addendum/Policy. This position is based on the Memorandum issued by HUD on Medical Use of Marijuana and Reasonable Accommodation in Federal Public and Assisted Housing. A large portion of the CDA properties have some federal assistance. To be consistent with the enforcement of our policies at all CDA properties, we wish to comply with federal law and the January 20, 2011 HUD Memorandum. Under that Memorandum "accommodations allowing the use of medical marijuana in public housing or other federally assisted housing are not reasonable under the Fair Housing Act." The Memorandum provides, "under the Fair Housing Act and other civil rights statutes protecting persons with disabilities, an accommodation may be denied as not reasonable." Accommodationsthat allow the use of medical marijuana would sanction violations of Federal Criminal Law and thus constitute a fundamental alteration of our housing programs and operations. Accordingly, any person seeking a waiver of our Crime Free Drug Addendum, our Smoke Free Policy/Addendum, or any other portion of our Lease or Rules that relates to the prohibition of theuse of marijuana, including medical marijuana, at our properties would be seeking an accommodation that is not "reasonable." We will deny the accommodation based on a HUD Memorandum and that analysis.

Chapter 9

REEXAMINATIONS

[24 CFR 960.257, 960.259, 966.4]

INTRODUCTION

~~The CDA is required to reexamine each family's income and composition periodically, and to adjust the family's rent accordingly. CDAs must adopt policies for conducting annual and interim reexaminations that are consistent with regulatory requirements, and must conduct reexaminations in accordance with such policies [24 CFR 960.257(c)].~~

~~The frequency with which the CDA must reexamine the income and composition of a family depends on whether the family pays income-based rent or flat rent. HUD requires the CDA to offer all families the choice of paying income-based rent or flat rent at least annually. The CDA's policies for offering families a choice of rents are located in Chapter 6.~~

~~This chapter discusses both annual and interim reexaminations.~~

~~Part I: Annual Reexaminations for Families Paying Income Based Rents. This part discusses the requirements for annual reexamination of income and family composition. Full reexaminations are conducted at least once a year for families paying income-based rents.~~

~~Part II: Reexaminations for Families Paying Flat Rents. This part contains the CDA's policies for conducting full reexaminations of family income and composition for families paying flat rents. These full reexaminations are conducted at least once every 3 years. This part also contains the CDA's policies for conducting annual updates of family composition for flat rent families.~~

~~Part III: Interim Reexaminations. This part includes HUD requirements and CDA policies related to when a family may and must report changes that occur between annual reexaminations.~~

~~Part IV: Recalculating Tenant Rent. After gathering and verifying required information for an annual or interim reexamination, the CDA must recalculate the tenant rent. While the basic policies that govern these calculations are provided in Chapter 6, this part describes the policies that affect these calculations during a reexamination.~~

~~Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this ACOP, apply to annual and interim reexaminations.~~

This chapter is applicable upon the PHA's HOTMA 102/104 compliance date.

With the exception of non-public housing over income families, the PHA is required to reexamine each family's income and composition periodically, and to adjust the family's rent accordingly. PHAs must adopt policies for conducting annual and interim reexaminations that are consistent with regulatory requirements and must conduct reexaminations in accordance with such policies [24 CFR 960.257(c)].

The frequency with which the PHA must reexamine the income and composition of a family depends on whether the family pays income-based rent or flat rent. HUD requires the PHA to offer all families the choice of paying income-based

rent or flat rent at least annually. The PHA's policies for offering families a choice of rents are located in Chapter 6.

This chapter discusses both annual and interim reexaminations.

Part I: Annual Reexaminations for Families Paying Income-Based Rents. This part discusses the requirements for annual reexamination of income and family composition. Full reexaminations are conducted at least once a year for families paying income-based rents.

Part II: Reexaminations for Families Paying Flat Rents. This part contains the PHA's policies for conducting full reexaminations of family income and composition for families paying flat rents. These full reexaminations are conducted at least once every three years. This part also contains the PHA's policies for conducting annual updates of family composition for flat rent families.

Part III: Interim Reexaminations. This part includes HUD requirements and PHA policies related to when a family may and must report changes that occur between annual reexaminations.

Part IV: Non-Interim Reexamination Transactions. This part describes transactions that do not entail changes to the family's adjusted income.

Part V: Recalculating Tenant Rent. After gathering and verifying required information for an annual or interim reexamination, the PHA must recalculate the tenant rent. While the basic policies that govern these calculations are provided in Chapter 6, this part describes the policies that affect these calculations during a reexamination.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this ACOP, apply to annual and interim reexaminations.

PART I: ANNUAL REEXAMINATIONS FOR FAMILIES PAYING INCOME-BASED RENTS [24 CFR 960.257]

9-I.A. OVERVIEW

For those families who choose to pay income-based rent, the CDA must conduct a reexamination of income and family composition at least annually [24 CFR 960.257(a)(1)]. For families who choose flat rents, the CDA must conduct a reexamination of family composition at least annually, and must conduct a reexamination of family income at least once every 3 years [24 CFR 960.257(a)(2)]. Policies related to the reexamination process for families paying flat rent are located in Part II of this chapter.

For all residents of public housing, whether those residents are paying income-based or flat rents, the CDA must conduct an annual review of community service requirement compliance. This annual reexamination is also a good time to have residents sign consent forms for criminal background checks in case the criminal history of a resident is needed at some point for the purposes of lease enforcement or eviction.

The CDA is required to obtain all of the information necessary to conduct reexaminations. How that information will be collected is left to the discretion of the CDA. Families are required to provide current and accurate information on income, assets, allowances and deductions, family composition and community service compliance as part of the reexamination process [24 CFR 960.259].

Unlike when performing an interim reexamination or at intake, at annual reexamination, the PHA must determine the income of the family for the previous 12-month period, except where the PHA uses a streamlined income determination. Income from assets, however, is always anticipated, irrespective of the income examination type [Notice PIH 2023-27]. PHAs also have the option of using Safe Harbor income verification from another federal means-tested program to verify gross annual income. Chapter 7 contains the PHA's policies related to streamlined income determinations and the use of Safe Harbor income verifications

This part contains the CDA's policies for conducting annual reexaminations.

~~**9-I.B STREAMLINED ANNUAL REEXAMINATIONS [24 CFR 960.257]**~~

~~HUD permits CDAs 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 CDA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or rate of interest. The CDA may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the CDA 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.~~

~~**CDA Policy**~~

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

9-I.~~C~~B. SCHEDULING ANNUAL REEXAMINATIONS

The CDA must establish a policy to ensure that the annual reexamination for each family paying an income-based rent is completed within a 12 month period [24 CFR 960.257(a)(1)].

CDA Policy

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

Anniversary date is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

If the family transfers to a new unit, the CDA will not perform a new annual reexamination.

The CDA may also schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

Notification of and Participation in the Annual Reexamination Process

The CDA is required to obtain information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the CDA. However, CDAs should give tenants who were not provided the opportunity to provide contact information at the time of admission the option to complete Form HUD-92006 at this time. The CDA should provide the family with the opportunity to update, change, or remove information from the HUD-92006 at the time of the annual reexamination [Notice PIH 2009-36].

CDA Policy

Families are required to participate in an annual reexamination interview, which must be attended by all members 18 years of age and older. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact the CDA to request a reasonable accommodation.

Notification of annual reexamination interviews will be sent by first-class mail and will contain the date, time, and location of the interview. In addition, it will inform the family of the information and documentation that must be brought to the interview. If the family is unable to attend a scheduled interview, the family should contact the CDA 24 hours in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend the scheduled interview, the CDA will send a second notification with a new interview appointment time.

If a family fails to attend three scheduled interviews without CDA approval, the family will be in violation of their lease and will be terminated in accordance with the policies in Chapter 13.

An advocate, interpreter, or other assistant may assist the family in the interview process.

9-I.~~D~~C. CONDUCTING ANNUAL REEXAMINATIONS

The terms of the public housing lease require the family to furnish information regarding income and family composition as may be necessary for the redetermination of rent, eligibility, and the appropriateness of the housing unit [24 CFR 966.4(c)(2)].

CDA Policy

Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment. The required information will include a CDA-designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documentation related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and will be terminated in accordance with the policies in Chapter 13.

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

~~**Change in Unit Size**~~

~~Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. The CDA may use the results of the annual reexamination to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12.~~

~~**Criminal Background Checks**~~

~~Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR 5.903(e)(1)(ii)]. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.~~

~~Additionally, HUD recommends that at annual reexaminations CDAs ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state [Notice PIH 2012-28].~~

~~**CDA Policy**~~

~~At the annual reexamination, the CDA will ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state. The CDA will use the Dru Sjodin National Sex Offender database to verify the information provided by the tenant.~~

~~If the CDA proposes to terminate assistance based on lifetime sex offender registration information, the CDA must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination. [24 CFR 5.903(f) and 5.905(d)]. (See Chapter 13.)~~

~~**Compliance with Community Service**~~

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

~~See Chapter 11 for the CDA's policies governing compliance with the community service requirement.~~

9-I.D. CALCULATING ANNUAL INCOME AT ANNUAL REEXAMINATION [24 CFR 5.609(c)(2) and Notice PIH 2023-27]

The PHA must determine the income of the family for the previous 12-month period and use this amount as the family income for annual reexaminations, except where the PHA uses a streamlined income determination as indicated in Chapter 7 of this policy. The PHA may also use Safe Harbor income determinations dated within the last 12 months from a means-tested federal public assistance program at annual reexamination as outlined in Chapter 7 of this policy.

Except when using streamlined or Safe Harbor income determinations, in determining the income of the family for the previous 12-month period, any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination in accordance with PHA policies and 24 CFR 5.657(c) or 960.257(b) must be considered.

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

A change in income may be a loss of income or the addition of a new source of income. Changing to a different employer in the prior year does not necessarily constitute a change if the income earned from either employer is substantially the same. The PHA should look at the entirety of the family's unearned income and earned income from the prior year in which earned income may have been one constant job or many different jobs that start and stop.

Cost of Living Adjustments (COLA) to Social Security income and Social Security disability income are always considered changes to income because the COLA is an adjustment that automatically occurs annually by law. See Chapter 6 for PHA policies on when the COLA is applied and Chapter 7 on streamlined determination of income for inflationary adjustments.

Notice PIH 2023-27 lists the following steps to calculate both earned and unearned income at annual reexamination.

Step 1: The PHA determines annual income for the previous 12-month period by reviewing the following information:

- The EIV Income Report pulled within 120 days of the effective date of the annual reexamination;
- The income reported on the most recent HUD-50058; and

- The amount of prior-year income reported by the family on the PHA's annual reexamination paperwork.

Step 2: The PHA takes into consideration any interim reexamination of family income completed since the last annual reexamination.

- If there was an interim reexamination performed within the last reexamination cycle and there are no additional changes, the PHA must use the annual income from the interim to determine the family's total annual income. The PHA may use verification obtained from the interim for this step.
- 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
  - Paystub with year-to-date amounts
  - Tax forms (Form 1040, W2, 1099, etc.)

If there are reported changes by the family or the PHA notes discrepancies between EIV and what the family reports, the PHA must follow the verification hierarchy (described in Chapter 7) to document and verify income. Exhibit 9-1 provides detailed examples of how the PHA calculates income from different sources at annual reexamination using the above method.

PHA Policy

When income is calculated using Safe Harbor determination from a means-tested federal public assistance program in accordance with PHA policies in Chapter 7, the above is not applicable. However, where the family disagrees with the PHA or other agency's determination of income or the PHA has other reason to use third-party verification in these circumstances, then the above will apply.

9-I.E. OTHER CONSIDERATIONS

Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. The PHA may use the results of the annual reexamination to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12.

Criminal Background Checks

Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR 5.903(e)(1)(ii)]. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

CDA Policy

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

Additionally, HUD recommends that at annual reexaminations PHAs ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state [Notice PIH 2012-28].

CDA Policy

At the annual reexamination, the CDA will ask whether the tenant, or any member of the tenant's household, is

subject to a lifetime sex offender registration requirement in any state. The CDA will use the Dru Sjodin National Sex Offender database to verify the information provided by the tenant.

If the CDA proposes to terminate assistance based on lifetime sex offender registration information, the CDA must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination. [24 CFR 5.903(f) and 5.905(d)]. (See Chapter 13.)

Compliance with Community Service

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

See Chapter 11 for the CDA's policies governing compliance with the community service requirement.

9-I.~~E~~F. EFFECTIVE DATES

As part of the annual reexamination process, the CDA must make appropriate adjustments in the rent after consultation with the family and upon verification of the information [24 CFR 960.257(a)(1)].

CDA Policy

In general, an ***increase*** in the resident rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 60 days in advance.

- If less than 60 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 60-day notice period.
- If the CDA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the CDA, but will always allow for the 60-day notice period.
- If the family causes a delay in processing the annual reexamination, *increases* in the resident rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any underpaid rent and may be offereda repayment agreement in accordance with the policies in Chapter 16.

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

- If the CDA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be the first day of the following month (after all information is received and calculated).
- If the family causes a delay in processing the annual reexamination, *decreases* in the resident rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

- Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by the CDA by the date specified, and this delay prevents the CDA from completing the reexamination as scheduled.

PART II: REEXAMINATIONS FOR FAMILIES PAYING FLAT RENTS [24 CFR 960.2537(2f)]

9-II.A. OVERVIEW

HUD requires that the CDA offer all families the choice of paying income-based rent or flat rent at least annually. The CDA's policies for offering families a choice of rents are located in Chapter 6.

For families who choose flat rents, the CDA must conduct a reexamination of family composition at least annually, and must conduct a reexamination of family income at least once every 3 years [24 CFR 960.2537(af)(2)]. The CDA is only required to provide the amount of income-based rent the family might pay in those years that the CDA conducts a full reexamination of income and family composition, or upon request of the family after the family submits updated income information [24 CFR 960.253(e)(2)]. However, these regulations are not applicable to over-income families. Once an over-income determination is made, the CDA must conduct an interim reexamination at 12 and 24 months, as applicable, to determine if the family remains over-income [Notice PIYH 2023-03].

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

This part contains the CDA's policies for conducting reexaminations of families who choose to pay flat rents.

9-II.B. FULL REEXAMINATION OF FAMILY INCOME AND COMPOSITION

Frequency of Reexamination

CDA Policy

For families paying flat rents, the CDA will conduct a full reexamination of family income and composition once every 3 years.

Reexamination Policies

CDA Policy

In conducting full reexaminations for families paying flat rents, the CDA will follow the policies used for the annual reexamination of families paying income-based rent as set forth in Sections 9-I.B through 9-I.D above.

9-II.C. REEXAMINATION OF FAMILY COMPOSITION ("ANNUAL UPDATE")

As noted above, full reexaminations are conducted every 3 years for families paying flat rents. In the years between full reexaminations, regulations require the CDA to conduct a reexamination of family composition ("annual update") [24 CFR 960.257(a)(2)]. Over-income families who select the flat rent are not subject to annual update as their income must be reviewed, and an interim reexamination conducted, as 12 and 24 months as applicable.

The annual update process is similar to the annual reexamination process, except that the CDA does not collect information about the family's income and expenses, and the family's rent is not recalculated following an annual update.

Scheduling

The CDA must establish a policy to ensure that the reexamination of family composition for families choosing to pay the flat rent is completed at least annually [24 CFR 960.257(a)(2)].

CDA Policy

For families paying flat rents, the CDA will conduct a full reexamination of family composition annually.

In scheduling the annual update, the CDA will follow the policy used for scheduling the annual reexamination of families paying income-based rent as set forth in Section 9-I.B. above.

Conducting Annual Updates

The terms of the public housing lease require the family to furnish information necessary for the redetermination of rent and family composition [24 CFR 966.4(c)(2)].

CDA Policy

All members of the household that are 18 years of age and older are required to attend an interview for an annual update.

Notification of annual update interviews will be sent by first-class mail and will inform the family of the information and documentation that must be provided to the CDA. If the family fails to bring all information and documentation to the scheduled interview, the family will have 10 business days to submit the required information to the CDA. If the family is unable to obtain the information or documents within the required time frame, the family may request an extension. The CDA will accept required documentation by mail, email, fax, or in person.

If the family's submission is incomplete, or the family does not submit the information in the required time frame, the CDA will send a second written notice to the family. The family will have 10 business days from the date of the second notice to provide the missing information or documentation to the CDA.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and will be terminated in accordance with the policies in Chapter 13.

Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. The CDA may use the results of the annual update to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12.

Criminal Background Checks

Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR 5.903I]. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

Compliance with Community Service

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

See Chapter 11 for the CDA's policies governing compliance with the community service requirement.

PART III: INTERIM REEXAMINATIONS

~~[24 CFR 960.257; 24 CFR 966.4]~~

24 CFR 960.257(b); 24 CFR 966.4; and Notice PIH 2023-27

9-III.A. OVERVIEW

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

~~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 change. The CDA must complete the interim reexamination within a reasonable time after the family's request.~~

~~This part includes HUD and CDA policies that describe the changes families are *required* to report, the changes families *may choose* to report, and how the CDA will process both CDA- and family-initiated interim reexaminations.~~

Family circumstances may change during the period between annual reexaminations. HUD and PHA policies define the types of information about changes in family circumstances that must be reported, and under what circumstances the PHA must process interim reexaminations to reflect those changes.

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 and household composition.

HUD recommends as a best practice that PHAs maintain documentation of all reported changes in the family's file, including those that did not result in an interim reexamination.

9-III.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

~~The CDA must adopt policies prescribing when and under what conditions the family must report changes in family composition. However, due to provisions of the public housing lease, the CDA has limited discretion in this area.~~

~~Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. Policies related to such transfers are located in~~

~~Chapter 12.~~

PHAs must require families to report household composition changes; however, PHAs determine the timeframe in which reporting happens [Notice PIH 2023-27]. The PHA must adopt policies prescribing when and under what conditions the family must report changes in family composition [24 CFR 960.257(b)(5)].

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. Policies related to such transfers are located in Chapter 12.

CDA Policy

All families, those paying income-based rent as well as flat rent, must report all changes in family and household composition that occur between annual reexaminations (or annual updates).

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

Conducting Interims [Notice PIH 2023-27]

PHAs must conduct interim reexaminations when a household adds or removes household members, including family members, foster adults, foster children, and live-in aides. An interim reexamination is processed to add the new member regardless of whether the change results in a decrease, increase, or no change in the family's annual adjusted income.

The exception to this policy is if, during the last three months of the family's recertification period, the family is adding or removing household members and the change would require an interim reexamination for an increase in the family's adjusted income, and the PHA has a written policy not to conduct interim reexaminations under these circumstances, then the PHA is not required to conduct an interim reexamination. If PHA policy allows for this, the PHA would instead include the change in household composition (and any related changes to income or allowances) at the family's next annual reexamination. A non-interim reexam transaction is not submitted in this case.

CDA Policy

The CDA will not conduct an interim reexamination when a family has a change in family composition within three months of the annual reexamination effective date. The CDA will add the new household member at the family's annual reexamination.

Otherwise, interim reexaminations are always conducted for changes in household composition. Changes to the household's adjusted income are processed as follows:

- When the addition or removal of a household member changes the deductions for which the family qualifies, the CDA processes the interim increase or decrease regardless of the amount of the change.
- When a household member is added who has earned income that would cause the household's adjusted income to increase, the CDA must not consider increases in earned income, unless the family has previously received an interim reduction during the same reexamination cycle, and CDA policy allows for an interim reexamination in this circumstance. If the increase is not considered, then an interim reexamination is processed to add the new member, but their income is not added until the family's next annual reexamination.

CDA Policy

When a household member is added who has earned income that would cause the household's adjusted income to increase between annual reexaminations, the CDA 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 CDA will process an interim to add the new member, but their income will not be added until the family's next annual reexamination.

- When a new household member is added who has unearned income, the CDA must process an interim reexamination regardless of the amount of the increase.
- When a new household member is added who has both earned and unearned income, the CDA must not consider increases in earned income, unless the family has previously received an interim reduction during the same reexamination cycle, and CDA policy allows for an interim reexamination in this circumstance. For the unearned income, the CDA processes the interim increase regardless of the amount of the increase

New Family Members Not Requiring Approval

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require CDA approval. However, the family is required to promptly notify the CDA of the addition [24 CFR 966.4(a)(1)(v)].

CDA Policy

The family must inform the CDA of the birth, adoption, or court-awarded custody of a child within 10 days.

New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request CDA approval to add a new family member [24 CFR 966.4(a)(1)(v)] or other household member (live-in aide or foster child) [24 CFR 966.4(d)(3)].

The CDA may adopt reasonable policies concerning residence by a foster child or a live-in aide, and defining the circumstances in which CDA consent will be given or denied. Under such policies, the factors considered by the CDA may include [24 CFR 966.4(d)(3)(i)]:

- Whether the addition of a new occupant may necessitate a transfer of the family to another unit, and whether such units are available.
- The CDA's obligation to make reasonable accommodation for persons with disabilities.

CDA Policy

Families must request CDA approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 15 days during any 12-month period and therefore no longer qualifies as a "guest." Requests must be made in writing and must be approved by the CDA prior to the individual moving into the unit.

If adding a person to a household (other than a child by birth, adoption, or court-awarded custody) will require a transfer to a larger size unit (under the transfer policy in Chapter 12), the CDA will approve the addition only if the family can demonstrate that there are medical needs or other extenuating circumstances, including reasonable accommodation, that should be considered by the CDA. Exceptions will be made on a case-by-case basis.

The CDA will not approve the addition of a new family or household member unless the individual meets the CDA's eligibility criteria (see Chapter 3) and documentation requirements (See Chapter 7, Part II).

If the CDA determines that an individual does not meet the CDA's eligibility criteria or documentation requirements, the CDA will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

The CDA will make its determination within 10 business days of receiving all information required to verify the individual's eligibility.

Departure of a Family or Household Member

The family must promptly notify the PHA if any household member (including a live-in aide, foster child, or foster adult) no longer lives in the unit. The PHA must process an interim for all decreases in adjusted income when a family member permanently moves out of the unit.

CDA Policy

If a family member ceases to reside in the unit, the family must inform the CDA within 10 days. This requirement also applies to family members who had been considered temporarily absent, who are now permanently absent.

~~If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform~~

~~the CDA within 10 days.~~

The CDA will process an interim if the family's adjusted income will decrease as a result of a family member permanently moving out of the unit.

9-III.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because the CDA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, the CDA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

CDA Policy

This section only applies to families paying income-based rent. Families paying flat rent are not required to report changes in income or expenses.

CDA-initiated Interim Reexaminations

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

CDA Policy

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

- For families receiving the Earned Income Disallowance (EID), the CDA will conduct aninterim reexamination at the start, to adjust the exclusion with any changes in income, and at the conclusion of the 24-month eligibility period.
- If the family has reported zero income, the CDA will conduct an interim reexaminationevery 6 months as long as the family continues to report that they have no income.
- If at the time of the annual reexamination, resident declarations were used on a provisional basis due to the lack of third-party verification, and third-party verificationbecomes available, the CDA will conduct an interim reexamination.
- The CDA may conduct an interim reexamination at any time in order to correct an errorin a previous reexamination, or to investigate a tenant fraud complaint.

Family-Initiated Interim Reexaminations

The CDA must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 960.257(c)]. In addition, HUD regulationsrequire that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 960.257(b)].

Required Reporting

HUD regulations give the CDA the discretion to determine the circumstances under whichfamilies will be required to report changes affecting income.

CDA Policy

Families are required to report all changes in income of $500 or more per month, from any source, including new or change in employment, social security, etc. within 30 days of the date the change takes effect. The CDA will process the change and inform the resident with a 60 daynotice of rent increase/decrease.

The CDA will only conduct interim reexaminations for families that qualify for the earned income

disallowance (EID), and only when the EID family's rent will change as a result of theincrease. In all other cases, the CDA will note the information in the resident file, but will not conduct an interim reexamination.

Optional Reporting

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 960.257(b)]. The CDA must process the request if the family reports a change that will result in a reduced family income [PH Occ GB, p. 159].

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced [24 CFR 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.

CDA Policy

If a family reports a change that it was not required to report and that would result in an increase in the tenant rent, the CDA 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 tenant rent, the CDA will conduct an interim reexamination. See Section 9-III.D. for effective dates.

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

9-III.D. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

CDA Policy

The family must notify the CDA of any, and all, changes in writing.

The family may not be required to attend an interview for an interim reexamination. However, if the CDA determines that an interview is warranted the family may be required to attend.

Based on the type of change reported, the CDA will determine the documentation the family will be required to submit. The family must submit all required information or documents within 10 days of receiving a request from the CDA. This time frame may be extended for good cause with CDA approval. The CDA will accept required documentation by mail, email, fax, or in person.

Effective Dates

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

CDA Policy

If the resident rent is to *increase*:

- The increase generally will be effective on the first of the month following 60 days' notice to the family.
- If a family fails to report a change within the required time frames, or fails to

provide allrequired information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been providedon a timely basis. The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16.

If the resident rent is to *decrease*:

- The decrease will be effective on the first day of the month following the month in which the change was reported. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.
- If the family causes a delay in processing the interim reexamination, decreases in the resident rent will be applied prospectively, from the first day of the month followingcompletion of the interim reexamination processing.
- Delays in interim reexamination processing are considered to be caused by the family if the family fails to provide information requested by the CDA by the date specified, and this delay prevents the CDA from competing the interim reexamination as scheduled.

Interim reexaminations for changes in income or expenses may be scheduled either because the PHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change.

The PHA must estimate the income of the family for the upcoming 12-month period to determine family income for an interim reexamination [24 CFR 5.609(c)(1)]. Policies for projecting income are found in Chapter 6.

Interim Decreases [24 CFR 960.257(b)(2) and Notice PIH 2023-27]

A family may request an interim determination of family income for any change since the last determination. However, the PHA may decline to conduct an interim reexamination if the PHA estimates the family's adjusted income will decrease by an amount that is less than 10 percent of the family's adjusted income, with the exception of circumstances in which household members are added or removed, as discussed in Section 9-III.B. 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. The PHA must conduct an interim reexamination when a family's annual adjusted income has changed by an amount that the PHA estimates will result in a decrease of 10 percent or more in annual adjusted income. In addition to decreases in family income, increases in a family's deductions may produce a sufficient decrease in annual adjusted income to require an interim reexamination.

CDA Policy

The CDA will conduct an interim reexamination any time the family's adjusted income has decreased by any amount.

Interim Increases [24 CFR 960.257(b)(3) and Notice PIH 2023-27]

Increases Less than 10 Percent

PHAs must not process interim reexaminations for income increases that result in less than a 10 percent increase in annual adjusted income.

Increases 10 Percent or Greater

PHAs must conduct an interim reexamination of family income when the PHA becomes aware that the family's adjusted income has changed by an amount that the PHA estimates will result in an increase of 10 percent or more in adjusted income, with the following exceptions:

- PHAs may not consider any increases in earned income when estimating or calculating whether the family's adjusted income has increased, unless the family has previously received an interim reduction during the same reexamination cycle; and
- PHAs may choose not to conduct an interim reexamination during the last three months of a certification period if a family reports an increase in income within three months of the next annual reexamination effective date.

When the family previously received an interim reexamination for a decrease to adjusted income during the same annual reexamination cycle, a PHA has the discretion whether to consider a subsequent increase in earned income.

CDA Policy

When a family reports an increase in their earned income between annual reexaminations, the CDA 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 CDA will process an interim reexamination for any increases in unearned income of 10 percent or more in adjusted income.

The CDA 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 CDA policies in Chapter 15.

Concurrent Increases in Earned and Unearned Income [Notice PIH 2023-27]

When the family reports an increase in both earned and unearned income at the same time, the PHA must look at the earned and unearned income changes independently of each other to determine if an interim reexamination is performed. The PHA will only conduct an interim reexamination when the increase independently meets the 10 percent threshold and all other requirements for performing interim reexaminations. For example, if a family reported increases in both earned and unearned income that overall resulted in a 12 percent increase in their adjusted income, but the change in earned income represented a 7 percent increase and the change in unearned income represented a 5 percent increase, the PHA may not perform an interim for either change since neither change meets the 10 percent threshold amount independently. If the change in unearned income met the 10 percent threshold in this case, the PHA would be required to perform an interim. If the change in earned income met the 10 percent threshold in this case, the PHA would refer to PHA policy to determine whether an interim was required.

Cumulative Increases [Notice PIH 2023-27]

A series of smaller reported increases in adjusted income may cumulatively meet or exceed the 10-percent increase threshold, at which point the PHA must conduct an interim reexamination in accordance with PHA policy.

Public Housing Over-Income Families [24 CFR 960.507(c); Notice PIH 2020-3; and Notice PIH 2023-27]

Regardless of changes in adjusted income, in some circumstances the PHA is required to conduct an interim reexamination to determine whether a family's income continues to exceed the public housing over-income limit. PHAs are required to conduct income examinations of public housing families who have been determined to exceed the over-income limit at specific intervals. When a PHA makes an initial determination that a family is over-income during an interim reexamination, the PHA must conduct a second interim reexamination 12 months after the over-income determination, and then again 12 months after the second over-income determination, unless the family's income falls below the over-income limit during the 24-month period. This continued evaluation of the family's over-income status requires the PHA to notify any family that exceeds the over-income limit that they remain over the income limit, even if the family is paying the flat rent [24 CFR 960.253]. An interim income reexamination to determine if a public housing family remains over-income does not reset the family's normal annual reexamination date.

Family Reporting

The PHA must adopt policies consistent with HUD regulations prescribing when and under what conditions the family must report a change in family income or composition [24 CFR 960.257(b)(5)].
PHA policy may require families to report only changes that the family estimates meet the threshold for an interim reexamination or the PHA may establish policies requiring that families report all changes in income and household composition, and the PHA will subsequently determine if the change requires an interim reexamination [Notice PIH 2023-27].

When the PHA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income. For example, if the family is reporting a decrease in adjusted income that is more than 10 percent, but the family also had a change in assets that would result in a change in income, the change in assets must also be reviewed [Notice PIH 2023-27].

CDA 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 CDA of changes either orally or in writing, including email. If the family provides oral notice, the CDA may also require the family to submit the changes in writing, including email.

Within 10 business days of the family reporting the change, the CDA will determine whether the change will require an interim reexamination.

If the change will not result in an interim reexamination, the CDA will note the information in the tenant file but will not conduct an interim reexamination. The CDA will send the family written notification (which may be emailed) 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 CDA 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 CDA 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 CDA. This time frame may be extended for good cause with CDA approval. The CDA will accept required documentation by mail, email, or in person. The CDA 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 CDA determines that an interview is warranted, the family may be required to attend.

9-III.D. EFFECTIVE DATES

Changes Reported Timely [24 CFR 960.257(b)(6) and Notice PIH 2023-27]

If the family reports a change in family income or composition timely in accordance with PHA policies:

- For rent increases, the PHA must provide the family with 30 days advance written notice. The rent increase is effective the first of the month after the end of that 30-day notice period.
- Rent decreases are effective on the first of the month after the date of the actual change leading to the interim reexamination of family income. This means the decrease will be applied retroactively.

Changes Not Reported Timely [24 CFR 960.257(b)(6)(ii) and (iii) and Notice PIH 2023-27]

If the family failed to report a change in family income or composition timely in accordance with PHA policies:

- For rent increases, the PHA must implement any resulting rent increases retroactively to the first of the month following the date of the change leading to the interim reexamination of family income.
- For rent decreases, the PHA must implement the change no later than the first rent period following completion of the interim reexamination.

However, the PHA may choose to adopt a policy that would make the effective date of the rent decrease retroactive to the first of the month following completion of the reexamination. PHAs may choose to establish conditions or requirements for when such a retroactive application would apply. PHAs that choose to adopt such policies must ensure the earliest date that the retroactive decrease is applied is the later of:

- The first of the month following the date of the change that led to the interim reexamination; or
- The first of the month following the most recent previous income examination.

In applying a retroactive change in rent as the result of an interim reexamination, the PHA must clearly communicate the effect of the retroactive adjustment to the family so that there is no confusion over the amount of the rent that is the family's responsibility.

CDA 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 CDA will apply the decrease the first of the month following completion of the interim reexamination.

However, the CDA 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 CDA management operations. The CDA will decide to apply decreases retroactively on a case-by-case basis.

When the CDA applies the results of interim increases retroactively, the CDA will clearly communicate the effect of the retroactive adjustment to the family and may enter into a repayment agreement in accordance with CDA policies.

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 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 childcare 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 (families will begin receiving a 24-month phased-in relief at their next annual or interim reexamination, whichever occurs first);
- Adding or removing general hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction;
- Adding or removing a minimum rent hardship;
- Adding or removing a non-family member (i.e., live-in aide, foster child, foster adult);
- Adding a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Removing a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Adding/updating a family or household member's Social Security number; and
- Updating a family member's citizenship status from eligible to ineligible or vice versa, resulting in a change to the family's rent and/or utility reimbursement, if applicable (i.e., family begins receiving prorated assistance or previously prorated assistance becomes full assistance), or updating the prorated rent calculation due to the addition or removal of family members in household with an ineligible noncitizen(s).

PHAs must make all other changes to assets, income, and deductions at the next annual or interim reexamination of income, whichever is sooner.

PART V: RECALCULATING TENANT RENT

9-V.A. OVERVIEW

For those families paying income-based rent, the PHA must recalculate the rent amount based on the income information received during the reexamination process and notify the family of the changes [24 CFR 966.4, 960.257]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

9-V.B. CHANGES IN UTILITY ALLOWANCES [24 CFR 965.507, 24 CFR 966.4]

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

CDA Policy

Unless the CDA is required to revise utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

9-V.C. NOTIFICATION OF NEW TENANT RENT

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

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

CDA Policy

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

9-V.D. DISCREPANCIES

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

EXHIBIT 9-1: CALCULATING INCOME AT ANNUAL REEXAMINATION

Example 1: Calculating Annual Income at Annual Reexamination Using EIV

Staff are processing the March 1 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 last annual reexamination. The SSA-published COLA is 7 percent.	
Last reexamination – Annual Reexamination	
Ruby: Wages: $30,000	Georgia: SSI: $10,980 ($915 monthly)

The EIV report pulled on 12/15

Ruby:
Wages Total: $33,651
Quarter 3 last year: $8,859 (City Public School)
Quarter 2 last year: $8,616 (City Public School)
Quarter 1 last year: $8,823 (City Public School)
Quarter 4 previous year: $7,353 (City Public School)

Georgia:
SSI Total: $10,980
Last year: $915 monthly benefit

<table>
<tr><td colspan="2">Income Reported on Reexamination Application</td></tr>
<tr><td>Ruby:
Wages at City Public School: $32,000 (switched jobs but no permanent change to amount)</td><td>Georgia:
SSI benefits: $10,980 (no changes)</td></tr>
<tr><td>Calculating Ruby’s wages:
Step 1: Determine prior annual income from EIV (i.e., Q4 previous year through Q3 last year: $33,651).
Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination).
Step 3: Ruby certifies that the $33,651 of wages in EIV is accurate and reflects her current annual income, so the PHA will use $33,651 for annual wages for the March 1 annual reexamination given there have been no additional changes to annual income.</td><td>Calculating Georgia’s SSI benefit:
Step 1: Determine the prior annual income from EIV (i.e., $915 x 12 months: $10,980).
Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination).
Step 3: Ruby certifies the SSI income in EIV is accurate and reflects Georgia’s current annual income. The PHA must adjust the prior-year income (2023 SSI benefit) by the 7- percent COLA and will use this amount to calculate annual SSI income for the March 1 annual reexamination:
COLA: $64.05 ($915 x 0.07)
New gross SSI benefit: $11,748.60 ($979.05 x 12 months)</td></tr>
<tr><td colspan="2">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.</td></tr>
<tr><td colspan="2">Summary of Annual Income (as reported on the HUD-50058)</td></tr>
<tr><td>Ruby (Head of Household):
Other Wage: $33,651
Myers Family Total Annual Income: $45,399</td><td>Georgia (Other Youth Under 18):
SSI: $11,748</td></tr>
</table>

Example 2: Calculating Annual Income at Annual Reexamination Using EIV: Family Disagrees with EIV

Staff are processing Paul Hewson's May 1 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 July 1. After the July 1 interim, Paul worked briefly at two different jobs, but he says he is no longer working and is not planning to work.
May 1 Annual Reexamination
Wages: $28,000

The EIV report pulled on 1/15

Wages Total: $18,271
Quarter 3 last year: $2,500 (Viking Bakery)
Quarter 3 last year: $796 (Sweet Tooth Candy Bar)
Quarter 2 last year: $1,300 (Sasha's Sweets)
Quarter 2 last year: $584 (Larry's Concessions)
Quarter 2 last year: $2,401 (Viking Bakery)
Quarter 1 last year: $6,500 (Sasha's Sweets)
Quarter 4 previous year: $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 March 1.
Calculating Wages and SS Benefit
Step 1: Determine prior annual income taking into consideration the July 1 interim reexamination (i.e., EIV wages reflected Q4 last year through Q3 this year: $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 July 1 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 May 1 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 November 1 annual reexamination for Samantha and Fergus Pool, head of household and spouse. On February 14 of this year, Samantha reported her monthly child support payment was reduced from $200 to $100 per month. 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 – November 1 Annual Reexamination	
Samantha: Business income: $28,000 VA disability pension: $12,000 Child support: $2,400	Fergus: Wages: $8,250 Other non-wage income: $3,000 (Go Fund Me online fundraiser)

The EIV report pulled on 9/16

Samantha:
Wages Total: $0 (no wage data reported since Q1 last year)

Fergus:
Wages Total: $8,600
Quarter 1 this year: $2,100 (Ian's Fish 'n' Chips)
Quarter 1 this year: $500 (Claire's Healthcare Supplies)
Quarter 4 last year: $1,000 (Claire's Healthcare Supplies)
Quarter 3 last year: $1,800 (The Onion Garden Shop)
Quarter 2 last year: $3,200 (Ivar's Fish Haus)

Current Family Circumstances: Income Reported on Reexamination Application
Samantha and Fergus reported how much income was earned/received in the previous 12-month period and noted permanent changes, where applicable, for each source of their income on PHA's annual reexamination form. However, no information was reported by the family concerning other non-wage income. Fergus reported only wages and his current employment at Ian's Fish 'n' Chips for the annual reexamination. The family supplied the supporting documentation noted below to the PHA for the November 1 annual reexamination.
Samantha: Business income: $28,750 (last year); has decreased to $18,000 (permanent change) VA disability benefit: $12,000 (last year); has increased to $12,300 (permanent change) Child support: $2,400 (last year); has decreased to $1,200 (permanent change) Fergus: Wages: $6,000

Calculating Samantha's Net Business Income
Step 1: Determine prior annual net business income (i.e., $28,000 on last HUD–50058). Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination. Step 3: Adjust to reflect current net business income. Samantha reported on the annual reexamination application that business income permanently decreased to $18,000. The PHA must obtain supporting documentation from Samantha that demonstrates current net business income. Samantha provided documentation that supported the current annual net business income is $18,000. Process the annual reexamination effective November 1 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 November 1 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 March 1 through the current month. Process the annual reexamination effective November 1 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 last year through Q1 of this year: $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 November 1 using income from wages determined in Step 3 ($9,360 in this example).

<table>
<tr><td colspan="2">Calculating Fergus' Other Non-Wage Income
Step 1: Determine prior annual income from other non-wage income (i.e., $3,000 on the last HUD– 50058).
Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.
Step 3: The family did not report any non-wage income on the annual reexamination form, but it was included on the last HUD–50058. The PHA must verify and adjust to reflect current non-wage income. The PHA must verify no income was received through a "Go Fund Me" online fundraiser so that it may be excluded. Fergus provided a self-certification that he hasn't solicited funds online and doesn't plan to in the following year; he also provided records from the account that documented no fundraising activity in the prior 12-month period. Process the annual reexamination effective November 1 using annual non-wage income of $0 determined in Step 3.</td></tr>
<tr><td colspan="2">Summary of Annual Income (as reported on the HUD-50058)</td></tr>
<tr><td>Samantha (Head of Household):
Own business: $18,000
Pension: $12,300
Child support: $1,200</td><td>Fergus (Co-head):
Wages: $9,360</td></tr>
<tr><td colspan="2">Poole Family Total Annual Income: $40,860</td></tr>
</table>

PART IV: RECALCULATING TENANT RENT

9-IV.A. OVERVIEW

For those families paying income-based rent, the CDA must recalculate the rent amount based on the income information received during the reexamination process and notify the family of the changes [24 CFR 966.4, 960.257]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

9-IV.B. CHANGES IN UTILITY ALLOWANCES [24 CFR 965.507, 24 CFR 966.4]

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

CDA Policy

Unless the CDA is required to revise utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

9-IV.C. NOTIFICATION OF NEW TENANT RENT

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

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

CDA Policy

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

9-IV.D. DISCREPANCIES

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

Chapter 10

PETS

[24 CFR 5, Subpart C; 24 CFR 960, Subpart G]

INTRODUCTION

This chapter explains the CDA's policies on the keeping of pets and describes any criteria or standards pertaining to the policies. The rules adopted are reasonably related to the legitimate interest of the CDA to provide a decent, safe and sanitary living environment for all tenants, and to protect and preserve the physical condition of the property, as well as the financial interest of the CDA.

The chapter is organized as follows:

Part I: Service Animals and Assistance Animals. This part explains the difference between service animals, assistance animals, and pets, and contains policies related to the designation of a service animal or assistance animal as well as their care and handling.

Part II: Pet policies for all developments. This part includes pet policies that are common to both elderly/disabled developments and general occupancy developments.

Part III: Pet deposits and fees for elderly/disabled developments. This part contains policies for pet deposits and fees that are applicable to elderly/disabled developments.

Part IV: Pet deposits and fees for general occupancy developments. This part contains policies for pet deposits and fees that are applicable to general occupancy developments.

PART I: SERVICE ANIMALS AND ASSISTANCE ANIMALS

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

10-I.A. OVERVIEW

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

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

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

10-I.B. APPROVAL OF SERVICE ANIMALS AND ASSISTANCE ANIMALS

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

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

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

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

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

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

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

A CDA may not refuse to allow a person with a disability to have an assistance animal merely because the animal does not have formal training. Some, but not all, animals that assist persons with disabilities are professionally trained. Other assistance animals are trained by the owners themselves and, in some cases, no special training is required. The question is whether or not the animal performs the assistance or provides the benefit needed by the person with the disability [PH Occ GB, p. 178].

A CDA's refusal to permit persons with a disability to use and live with an assistance animal that is needed to assist them, would violate Section 504 of the Rehabilitation Act and the Fair Housing Act unless [PH Occ GB, p. 179]:

- There is reliable objective evidence that the animal poses a direct threat to the health or safety of others that cannot be reduced or eliminated by a reasonable accommodation
- There is reliable objective evidence that the animal would cause substantial physical damage to the property of others

CDAs have the authority to regulate service animals and assistance animals under applicable federal, state, and local law [24 CFR 5.303(b)(3); 960.705(b)(3)].

CDA Policy

For an animal to be excluded from the pet policy and be considered a service animal, it must be a trained dog, and there must be a person with disabilities in the household who requires the dog's services.

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

10-I.C. CARE AND HANDLING

HUD regulations do not affect any authority a CDA may have to regulate service animals and assistance animals under federal, state, and local law [24 CFR 5.303; 24 CFR 960.705].

CDA Policy

Residents must care for service animals and assistance animals in a manner that complies with state and local laws, including anti-cruelty laws.

Residents must ensure that service animals and assistance animals do not pose a direct threat to the health or safety of others, or cause substantial physical damage to the development, dwelling unit, or property of other residents.

When a resident's care or handling of a service animal or assistance animal violates these policies, the CDA will consider whether the violation could be reduced or eliminated by a reasonable accommodation. If the CDA determines that no such accommodation can be made, the CDA may withdraw the approval of a particular service or assistance animal.

PART II: PET POLICIES FOR ALL DEVELOPMENTS

[24 CFR 5, Subpart C; 24 CFR 960, Subpart G]

10-II.A. OVERVIEW

The purpose of a pet policy is to establish clear guidelines for ownership of pets and to ensure that no applicant or resident is discriminated against regarding admission or continued occupancy because of ownership of pets. It also establishes reasonable rules governing the keeping of common household pets. This part contains pet policies that apply to all developments.

10-II.B. MANAGEMENT APPROVAL OF PETS

Registration of Pets

CDAs may require registration of the pet with the CDA [24 CFR 960.707(b)(5)].

CDA Policy

Pets must be registered with the CDA before they are brought onto the premises.

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

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

Refusal to Register Pets

CDA Policy

The CDA will refuse to register a pet if:

- The pet is not a *common household pet* as defined in Section 10-II.C. below
- Keeping the pet would violate any pet restrictions listed in this policy
- The pet owner fails to provide complete pet registration information, or fails to update the registration annually
- The applicant has previously been charged with animal cruelty under state or local law; or has been evicted, had to relinquish a pet or been prohibited from future pet ownership due to pet rule violations or a court order
- The CDA reasonably determines that the pet owner is unable to keep the pet in compliance with the pet rules and other lease obligations. The pet's temperament and behavior may be considered as a factor in determining the pet owner's ability to comply with provisions of the lease.

If the CDA refuses to register a pet, written notification will be sent to the pet owner within 10 days of the CDA's decision. The notice will state the reason for refusing to register the pet and will inform the family of their right to appeal the decision in accordance with the CDA's grievance procedures.

Pet Agreement

CDA Policy

Residents who have been approved to have a pet must enter into a pet agreement with the CDA, or the approval of the pet will be withdrawn.

The pet agreement is the resident's certification that he or she has received a copy of the CDA's pet policy and applicable house rules, that he or she has read the policies and/or rules, understands them, and agrees to comply with them.

The resident further certifies by signing the pet agreement that he or she understands that noncompliance with the CDA's pet policy and applicable house rules may result in the withdrawal of CDA approval of the pet or termination of tenancy.

10-II.C. STANDARDS FOR PETS [24 CFR 5.318; 960.707(b)]

CDAs may establish reasonable requirements related to pet ownership including, but not limited to:

- Limitations on the number of animals in a unit, based on unit size
- Prohibitions on types of animals that the CDA classifies as dangerous, provided that such classifications are consistent with applicable state and local law
- Prohibitions on individual animals, based on certain factors, including the size and weight of the animal
- Requiring pet owners to have their pets spayed or neutered

CDAs may not require pet owners to have any pet's vocal cords removed.

Definition of "Common Household Pet"

There is no regulatory definition of common household pet for public housing programs, although the regulations for pet ownership in both elderly/disabled and general occupancy developments use the term. The regulations for pet ownership in elderly/disabled developments expressly authorize CDAs to define the term [24 CFR 5.306(2)].

CDA Policy

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

The following animals are not considered common household pets:

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

Pet Restrictions

The following animals are not permitted:

- Any animal whose adult weight will exceed 25 pounds
- Dogs of the pit bull, rottweiler, chow, or boxer breeds
- Ferrets or other animals whose natural protective mechanisms pose a risk to small children of serious bites or lacerations
- Any animal not permitted under state or local law or code

Number of Pets

CDA Policy

Residents may own a maximum of 1 cat and/or dog.

In the case of fish, residents may keep no more than can be maintained in a safe and healthy manner in a tank holding up to 10 gallons.

Other Requirements

CDA Policy

Dogs and cats must be spayed or neutered at the time of registration or, in the case of underage animals, within 30 days of the pet reaching 6 months of age. Exceptions may be made upon veterinary certification that subjecting this particular pet to the procedure would be temporarily or permanently medically unsafe or unnecessary.

Pets must be licensed in accordance with state or local law. Residents must provide proof of licensing at the time of registration and annually, in conjunction with the resident's annual reexamination.

10-II.D. PET RULES

Pet owners must maintain pets responsibly, in accordance with CDA policies, and in compliance with applicable state and local public health, animal control, and animal cruelty laws and regulations [24 CFR 5.315; 24 CFR 960.707(a)].

Pet Area Restrictions

CDA Policy

Pets must be maintained within the resident's unit. When outside of the unit (within the building or on the grounds) dogs and cats must be kept on a leash or carried. They must be under the control of the resident or other responsible individual at all times.

Pets other than dogs or cats must be kept in a cage or carrier when outside of the unit.

Pets are not permitted in common areas including lobbies, community rooms and laundry areas except for those common areas which are entrances to and exits from the building.

Pet owners are responsible for the immediate pick up and disposal of any waste expelled by pet.

Designated Pet/No-Pet Areas [24 CFR 5.318(g), PH Occ GB, p. 182]

CDA's may designate buildings, floors of buildings, or sections of buildings as no-pet areas where pets generally may not be permitted. Pet rules may also designate buildings, floors of building, or sections of building for residency by pet-owning tenants.

CDA's may direct initial tenant moves as may be necessary to establish pet and no-pet areas. The CDA may not refuse to admit, or delay admission of, an applicant on the grounds that the applicant's admission would violate a pet or no-pet area. The CDA may adjust the pet and no-pet areas or may direct such additional moves as may be necessary to accommodate such applicants for tenancy or to meet the changing needs of the existing tenants.

CDA's may not designate an entire development as a no-pet area, since regulations permitresidents to own pets.

CDA Policy

With the exception of common areas as described in the previous policy, the CDA has not designated any buildings, floors of buildings, or sections of buildings as no-pet areas. In addition, the CDA has not designated any buildings, floors of buildings, or sections of buildings for residency of pet-owning residents.

Cleanliness

CDA Policy

The pet owner shall be responsible for the immediate removal of waste by placing it in a sealed plastic bag and disposing of it.

The pet owner shall take adequate precautions to eliminate any pet odors within or around the unit and to maintain the unit in a sanitary condition at all times.

Litter box requirements:

- Pet owners must promptly dispose of waste from litter boxes and must maintain litterboxes in a sanitary manner.
- Litter shall not be disposed of by being flushed through a toilet.
- Litter boxes shall be kept inside the resident's dwelling unit.

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

Installation of pet doors is prohibited.

Noise

CDA Policy

Pet owners must agree to control the noise of pets so that such noise does not constitute a nuisance to other residents or interrupt their peaceful enjoyment of their housing unit or premises. This includes, but is not limited to loud or continuous barking, howling, whining, biting, scratching, chirping, or other such activities.

Pet Care

CDA Policy

Each pet owner shall be responsible for adequate care, nutrition, exercise and medical attention for his/her pet.

Each pet owner shall be responsible for appropriately training and caring for his/her pet to ensure that the pet is not a nuisance or danger to other residents and does not damage CDA property.

No animals may be tethered or chained inside or outside the dwelling unit at any time.

Responsible Parties

CDA Policy

The pet owner will be required to designate two responsible parties for the care of the pet if the health or safety of the pet is threatened by the death or incapacity of the pet owner, or by other factors that render the pet owner unable to care for the pet.

Pets Temporarily on the Premises

CDA Policy

Pets that are not owned by a tenant are not allowed on the premises. Residents are prohibited from feeding or harboring stray animals.

Pet Rule Violations

CDA Policy

All complaints of cruelty and all dog bites will be referred to animal control or applicable agency for investigation and enforcement.

If a determination is made on objective facts supported by written statements, that a resident/pet owner has violated the pet rules, written notice will be served.

The notice will contain a brief statement of the factual basis for the determination and the pet rule(s) that were violated. The notice will also state:

- That the pet owner has 10 days from the effective date of the service of notice to correct the violation or make written request for a meeting to discuss the violation;
- That the pet owner is entitled to be accompanied by another person of his or her choice atthe meeting; and
- That the pet owner's failure to correct the violation, request a meeting, or appear at a requested meeting may result in initiation of procedures to remove the pet, or to terminatethe pet owner's tenancy.

Notice for Pet Removal

CDA Policy

If the pet owner and the CDA are unable to resolve the violation at the meeting or the pet owner fails to correct the violation in the time period allotted by the CDA, the CDA will serve notice to remove the pet.

The notice will contain:

- A brief statement of the factual basis for the CDA's determination of the pet rule that hasbeen violated

- The requirement that the resident /pet owner must remove the pet within 7 days of thenotice
- A statement that failure to remove the pet may result in the initiation of termination oftenancy procedures

Pet Removal

CDA Policy

If the death or incapacity of the pet owner threatens the health or safety of the pet, or other factors occur that render the owner unable to care for the pet, the situation will be reported to the responsible party designated by the pet owner.

If the responsible party is unwilling or unable to care for the pet, or if the CDA after reasonable efforts cannot contact the responsible party, the CDA will contact the appropriate state or local agency and request the removal of the pet.

Termination of Tenancy

CDA Policy

The CDA will initiate procedures for termination of tenancy based on a pet rule violation if:

- The pet owner has failed to remove the pet or correct a pet rule violation within the timeperiod specified
- The pet rule violation is sufficient to begin procedures to terminate tenancy under termsof the lease

Emergencies

CDA Policy

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

If it is necessary for the CDA to place the pet in a shelter facility, the cost will be the responsibility of the pet owner.

If the pet is removed as a result of any aggressive act on the part of the pet, the pet will not be allowed back on the premises.

PART III: PET DEPOSITS AND FEES IN ELDERLY/DISABLED DEVELOPMENTS (Colleen Loney Manor)

10-III.A. OVERVIEW

This part describes the CDA's policies for pet deposits and fees in elderly, disabled and mixed population developments. Policies governing deposits and fees in general occupancy developments are described in Part IV.

10-III.B. PET DEPOSITS

Payment of Deposit

The CDA may require tenants who own or keep pets in their units to pay a refundable pet deposit. This deposit is in addition to any other financial obligation generally imposed on tenants of the project [24 CFR 5.318(d)(1)].

The maximum amount of pet deposit that may be charged by a CDA on a per dwelling unit basis, is the higher of the total tenant payment (TTP) or such reasonable fixed amount as the CDA may require. The CDA may permit gradual accumulation of the pet deposit by the pet owner [24 CFR 5.318(d)(3)].

The pet deposit is not part of the rent payable by the resident [24 CFR 5.318(d)(5)].

CDA Policy

Pet owners are required to pay a pet deposit of $500.00 in addition to any other required deposits.

A pet deposit must be paid in full before the pet is brought on the premises.

Refund of Deposit [24 CFR 5.318(d)(1)]

The CDA may use the pet deposit only to pay reasonable expenses directly attributable to the presence of the pet, including (but not limited to) the costs of repairs and replacements to, and fumigation of, the tenant's dwelling unit. The CDA must refund the unused portion of the pet deposit to the tenant within a reasonable time after the tenant moves from the project or no longer owns or keeps a pet in the unit.

CDA Policy

The CDA will refund the pet deposit to the resident, less the costs of any damages caused by the pet to the dwelling unit, within 21 days of lease end date or the date the pet is removed from the unit.

The resident will be billed for any amount that exceeds the pet deposit.

The CDA will provide the resident with a written list of any charges against the pet deposit within 21 days of the lease end date or the date the pet is removed from the unit. If the resident disagrees with the amount charged to the pet deposit, the CDA will provide a meeting to discuss the charges.

10-III.C. OTHER CHARGES

Pet-Related Damages During Occupancy

CDA Policy

All reasonable expenses incurred by the CDA as a result of damages directly attributable to the presence of the pet in the project will be the responsibility of the resident, including:

The cost of repairs and replacements to the resident's dwelling unit

- Fumigation of the dwelling unit
- Repairs to common areas of the project
- The expense of flea elimination shall also be the responsibility of the resident.

If the resident is in occupancy when such costs occur, the resident shall be billed for such costs in accordance with the policies in Section 8-I.G, Maintenance and Damage Charges. Pet deposits will not be applied to the costs of pet-related damages during occupancy.

Charges for pet-related damage are not part of rent payable by the resident.

Pet Waste Removal Charge

The regulations do not address the CDA's ability to impose charges for house pet rule violations. However, charges for violation of CDA pet rules may be treated like charges for other violations of the lease and CDA tenancy rules.

CDA Policy

A separate pet waste removal charge of $10.00 per occurrence will be assessed against pet owners who fail to remove pet waste in accordance with this policy and are not part of rent payable by the resident.

Such charges will be due and payable 14 calendar days after billing.

PART IV: PET DEPOSITS AND FEES IN GENERAL OCCUPANCY DEVELOPMENTS (Scattered Sites)

10-IV.A. OVERVIEW

This part describes the CDA's policies for pet deposits and fees for those who reside in general occupancy developments.

10-IV.B. PET DEPOSITS

A CDA may require a refundable pet deposit to cover additional costs attributable to the pet and not otherwise covered [24 CFR 960.707(b)(1)].

A CDA that requires a resident to pay a pet deposit must place the deposit in an account of the type required under applicable State or local law for pet deposits, or if there are no such requirements, for rental security deposits, if applicable. The CDA must comply with such laws as to retention of the deposit, interest, and return of the deposit to the resident, and any other applicable requirements [24 CFR 960.707(d)].

Payment of Deposit

CDA Policy

Pet owners are required to pay a pet deposit of $500.00 in addition to any other required deposits.

The deposit must be paid in full before the pet is brought on the premises.

Refund of Deposit

CDA Policy

The CDA will refund the pet deposit to the resident, less the costs of any damages caused by the pet to the dwelling unit, within 21 days of lease end date or the date the pet is removed from the unit. The resident will be billed for any amount that exceeds the pet deposit.

The CDA will provide the resident with a written list of any charges against the pet deposit within 21 days of the lease end date or the date the pet is removed from the unit. If the resident disagrees with the amount charged to the pet deposit, the CDA will provide a meeting to discuss the charges.

10-IV.C. NON-REFUNDABLE NOMINAL PET FEE

CDA Policy

The CDA does not charge of non-refundable pet fee

10-IV.D. OTHER CHARGES

Pet-Related Damages During Occupancy

CDA Policy

All reasonable expenses incurred by the CDA as a result of damages directly attributable to the presence of the pet in the project will be the responsibility of the resident, including:

The cost of repairs and replacements to the resident's dwelling unit

- Fumigation of the dwelling unit
- Repairs to common areas of the project
- The expense of flea elimination shall also be the responsibility of the resident.

If the resident is in occupancy when such costs occur, the resident shall be billed for such costs in accordance with the policies in Section 8-I.G, Maintenance and Damage Charges. Pet deposits will not be applied to the costs of pet-related damages during occupancy.

Charges for pet-related damage are not part of rent payable by the resident.

Pet Waste Removal Charge

The regulations do not address the CDA's ability to impose charges for house pet rule violations. However, charges for violation of CDA pet rules may be treated like charges for other violations of the lease and CDA tenancy rules.

CDA Policy

A separate pet waste removal charge of $10.00 per occurrence will be assessed against pet owners who fail to remove pet waste in accordance with this policy and are not part of rent payable by the resident.

Such charges will be due and payable 14 days after billing.

Chapter 11

COMMUNITY SERVICE

INTRODUCTION

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

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

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

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

PART I: COMMUNITY SERVICE REQUIREMENT

11-I.A. OVERVIEW

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

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

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

11-I.B. REQUIREMENTS

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

- Contribute 8 hours per month of community service; or
- Participate in an economic self-sufficiency program (as defined in the regulations) for 8 hours per month; or
- Perform 8 hours per month of combined activities (community service and economic self-sufficiency programs).
- The required community service or self-sufficiency activity may be completed 8 hours each month or may be aggregated across a year. Any blocking of hours is acceptable as long as 96 hours is completed by each annual certification of compliance [Notice PIH 2015-12].

Definitions

Exempt Individual [24 CFR 960.601(b), Notice PIH 2015-12]

An *exempt individual* is an adult who:

- Is age 62 years or older
- Is blind or disabled (as defined under section 216[i][l] or 1614 of the Social Security Act), and who certifies that because of this disability s/he is unable to comply with the service provisions
- Is a primary caretaker of such an individual
- Is engaged in work activities
- HUD regulations provide for hardship exemptions from minimum rent. See section 6-III.B

CDA Policy

The CDA will consider any resident receiving earned income exempt from community service requirements.

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

Community Service [24 CFR 960.601(b), Notice PIH 2015-12]

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

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

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

CDAs may form their own policy in regards to accepting community services at profit-motivated entities, acceptance of volunteer work performed at homes or offices of general private citizens, and court-ordered or probation-based work.

CDA Policy

Community services at profit-motivated entities, volunteer work performed at homes or offices of general private citizens, and court-ordered or probation-based work will not be considered eligible community service activities.

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

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

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

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

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

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

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

Notification Requirements [24 CFR 960.605(c)(2), Notice PIH 2015-12, Notice PIH 2016- 06]

The CDA must give each family a written description of the community service requirement, the

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

CDA Policy

The CDA will provide the family with a copy of the Community Service Policy found in Exhibit 11-1 of this chapter, at lease-up, lease renewal, when a family member is determined to be subject to the community service requirement during the lease term, and at any time upon the family's request.

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

11-I.C. DETERMINATION OF EXEMPTION STATUS AND COMPLIANCE [24 CFR 960.605(c)(3)]

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

CDA Policy

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

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

Annual Determination

Determination of Exemption Status

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

CDA Policy

The CDA will review and verify the exemption status of all adult family members. This verification will only be done on an annual basis unless the family reports a change or the CDA has reason to believe that an individual's exemption status has changed. For individuals who are exempt because they are 62 years of age and older, verification of exemption status will be done

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

Determination of Compliance

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

CDA Policy

Approximately 30 days prior to the end of the lease term, the CDA will provide written notice requiring the family to submit documentation that all subject family members have complied with the service requirement. The family will have 10 business days to submit the CDA required documentation form(s).

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

Change in Status between Annual Determinations

CDA Policy

Exempt to Nonexempt Status

If an exempt individual becomes nonexempt during the twelve month lease term, it is the family's responsibility to report this change to the CDA within 30 days.

Within 10 days of a family reporting such a change, or the CDA determining such a change is necessary, the CDA will provide written notice of the effective date of the requirement, a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which the family member may record the activities performed and number of hours contributed.

The effective date of the community service requirement will be the first of the month following the change in status.

Determination of Initial Compliance

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

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

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

Ms. Dewhurst must perform 9 months of community service in her initial compliance period, before the end of the lease term (anniversary date).

Nonexempt to Exempt Status

If a nonexempt person becomes exempt during the twelve month lease term, it is the family's responsibility to report this change to the CDA within 30 days. Any claim of exemption will be verified by the CDA in accordance with the policy at 11-I.D., Documentation and Verification of Exemption Status.

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

The exemption will be effective immediately.

11-I.D. DOCUMENTATION AND VERIFICATION [24 CFR 960.605(c)(4), 960.607, Notice PIH 2016-08]

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

Documentation and Verification of Exemption Status

CDA Policy

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

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

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

Documentation and Verification of Compliance

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

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

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

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

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

CDA Policy

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

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

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

11-I.E. NONCOMPLIANCE

Noncompliant Residents

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

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

- A brief description of the finding of non-compliance with CSSR.
- A statement that the CDA will not renew the lease at the end of the current 12-month lease term unless the tenant enters into a written work-out agreement with the CDA or the family provides written assurance that is satisfactory to the CDA explaining that the tenant or other noncompliant resident no longer resides in the unit. Such written work-out agreement must include the means through which a noncompliant family member will comply with the CSSR requirement [24 CFR 960.607(c), Notice PIH 2015-12].

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

CDA Policy

The notice of noncompliance will be sent at least 30 days prior to the end of the lease term.

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

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

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

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

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

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

- **CDA Policy**

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

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

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

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

PART II: IMPLEMENTATION OF COMMUNITY SERVICE

11-II.A. OVERVIEW

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

CDA Implementation of Community Service

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

CDA Policy

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

CDA Program Design

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

CDA Policy

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

The CDA's goal is to design a service program that gives residents viable opportunities to become involved in the community and to gain competencies and skills.

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

The CDA will not provide in-house opportunities for volunteer work or self-sufficiency programs.

Chapter 12

TRANSFER POLICY

INTRODUCTION

This chapter explains the CDA's transfer policy, based on HUD regulations, HUD guidance, and CDA policy decisions.

This chapter describes HUD regulations and CDA policies related to transfers in four parts:

Part I: Emergency Transfers. This part describes emergency transfers, emergency transfer procedures, and payment of transfer costs.

Part II: CDA Required Transfers. This part describes types of transfers that may be required by the CDA, notice requirements, and payment of transfer costs.

Part III: Transfers Requested by Residents. This part describes types of transfers that may be requested by residents, eligibility requirements, security deposits, payment of transfer costs, and handling of transfer requests.

Part IV: Transfer Processing. This part describes creating a waiting list, prioritizing transfer requests, the unit offer policy, examples of good cause, deconcentration, transferring to another development and reexamination.

The CDA may require the tenant to move from the unit under some circumstances. There are also emergency circumstances under which alternate accommodations for the tenant must be provided, that may or may not require a transfer.

The tenant may also request a transfer, such as a request for a new unit as a reasonable accommodation.

The CDA must have specific policies in place to deal with acceptable transfer requests.

PART I: EMERGENCY TRANSFERS

12-I.A. OVERVIEW

HUD categorizes certain situations that require emergency transfers [PH Occ GB, p. 147]. The emergency transfer differs from a typical transfer in that it requires immediate action by the CDA.

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

12-I.B. EMERGENCY TRANSFERS

If the dwelling unit is damaged to the extent that conditions are created which are hazardous to life, health, or safety of the occupants, the CDA must offer standard alternative accommodations, if available, where necessary repairs cannot be made within a reasonable time [24 CFR 966.4(h)].

The VAWA 2013 final rule requires the CDA to adopt an emergency transfer plan for victims of domestic violence, dating violence, sexual assault, or stalking.

CDA Policy

The CDA will immediately process requests for transfers due to domestic violence, dating violence, sexual assault, or stalking. The CDA will allow a tenant to make an internal emergency transfer under VAWA after the incident has been verified and a safe unit is available.

12-I.C. EMERGENCY TRANSFER PROCEDURES

If the dwelling unit is damaged to the extent that conditions are created which are hazardous to life, health, or safety of the occupants, the CDA must offer standard alternative accommodations, if available, where necessary repairs cannot be made within a reasonable time [24 CFR 966.4(h)].

CDA Policy

Emergency transfers that arise due to maintenance conditions are mandatory for the resident.

12-I.D. COSTS OF EMERGENCY TRANSFER

CDA Policy

Unless otherwise required by applicable law or federal regulation, the resident will bear all the costs associated with such transfer/move.

PART II: CDA REQUIRED TRANSFERS

12-II.A. OVERVIEW

HUD regulations regarding transfers are minimal, leaving it up to the CDA to develop reasonable transfer policies.

The CDA may require that a resident transfer to another unit under some circumstances. For example, the CDA may require a resident to transfer to make an accessible unit available to a disabled family. The CDA may also transfer a resident in order to maintain occupancy standards based on family composition. Finally, a CDA may transfer residents in order to demolish or renovate the unit.

A transfer that is required by the CDA is an adverse action, and is subject to the notice requirements for adverse actions [24 CFR 966.4(e)(8)(i)].

12-II.B. TYPES OF CDA REQUIRED TRANSFERS

CDA Policy

The types of transfers that may be required by the CDA, include, but are not limited to, transfers to make an accessible unit available for a disabled family, transfers to comply with occupancy standards, transfers for demolition, disposition, revitalization, or rehabilitation, and emergency transfers as discussed in Part I of this chapter.

Transfers required by the CDA are mandatory for the resident.

Transfers to Make an Accessible Unit Available

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

CDA Policy

When a non-accessible unit becomes available, the CDA will transfer a family living in an accessible unit that does not require the accessible features, to an available unit that is not accessible. The CDA may wait until a disabled resident requires the accessible unit before transferring the family that does not require the accessible features out of the accessible unit.

Occupancy Standards Transfers

The CDA may require a resident to move when a reexamination indicates that there has been a change in family composition, and the family is either overcrowded or over-housed according to CDA policy [24 CFR 960.257(a)(4)]. On some occasions, the CDA may initially place a resident in an inappropriately sized unit at lease-up, where the family is over-housed, to prevent vacancies. The public housing lease must include the tenant's agreement to transfer to an appropriately sized unit based on family composition [24 CFR 966.4(c)(3)].

CDA Policy

The CDA will transfer a family when the family size has changed and the family is now too large (overcrowded) or too small (over-housed) for the unit occupied.

For purposes of the transfer policy, overcrowded and over-housed are defined as follows:

- *Overcrowded*: the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides, according to the chart in Section 5-I.B.
- *Over-housed:* the family no longer qualifies for the bedroom size in which they are living based on the CDA's occupancy standards as described in Section 5-I.B.

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

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

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

Families that request and are granted an exception to the occupancy standards (for either a larger or smaller size unit) in accordance with the policies in Section 5-I.C. will only be required to transfer if it is necessary to comply with the approved exception.

Demolition, Disposition, Revitalizations, or Rehabilitation Transfers

These transfers permit the CDA to demolish, sell or do major capital or rehabilitation work at a building site [PH Occ GB, page 148].

CDA Policy

The CDA will relocate a family when the unit or site in which the family lives is undergoing major rehabilitation that requires the unit to be vacant, or the unit is being disposed of or demolished.

12-II.C. ADVERSE ACTION [24 CFR 966.4(e)(8)(i)]

A CDA required transfer is an adverse action. As an adverse action, the transfer is subject to the requirements regarding notices of adverse actions. If the family requests a grievance hearing within the required timeframe, the CDA may not take action on the transfer until the conclusion of the grievance process.

12-II.D. COST OF TRANSFER

CDA Policy

The CDA will bear the reasonable costs of transfers due to demolition, disposition, revitalization, or rehabilitation that the CDA requires. Residents will be required to bear the cost of occupancy standards transfers.

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

Rather than reimbursing the family for eligible, reasonable expenses related to the move, the CDA will make arrangements and pay for the move.

PART III: TRANSFERS REQUESTED BY TENANTS

12-III.A. OVERVIEW

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

Some transfers that are requested by tenants should be treated as higher priorities than others due to the more urgent need for the transfer.

12-III.B. TYPES OF RESIDENT REQUESTED TRANSFERS

CDA Policy

The types of requests for transfers that the CDA will consider are limited to requests for transfers to alleviate a serious or life threatening medical condition, transfers due to a threat of physical harm or criminal activity, reasonable accommodation, and transfers to a different unit size as long as the family qualifies for the unit according to the CDA's occupancy standards. No other transfer requests will be considered by the CDA.

The CDA will consider the following as high priority transfer requests:

- When a transfer is needed to alleviate verified medical problems of a serious or life-threatening nature
- When there has been a verified threat of physical harm or criminal activity. Such circumstances may, at the CDA's discretion, include an assessment by law enforcementindicating that a family member is the actual or potential victim of a criminal attack, retaliation for testimony, or a hate crime
- When a family requests a transfer as a reasonable accommodation. Examples of a reasonable accommodation transfer include, but are not limited to, a transfer to a first floor unit for a person with mobility impairment, or a transfer to a unit with accessiblefeatures

The CDA will consider the following as regular priority transfer requests:

- When a family requests a larger bedroom size unit even though the family does not meetthe CDA's definition of overcrowded, as long as the family meets the CDA's occupancystandards for the requested size unit. This would be completed under an approved Reasonable Accommodation.

Transfers requested by the resident are considered optional for the resident.

12-III.C. ELIGIBILITY FOR TRANSFER

Transferring residents do not have to meet the admission eligibility requirements pertaining to income or preference. However, the CDA may establish other standards for considering a transfer request [PH Occ GB, p. 150].

CDA Policy

Except where reasonable accommodation is being requested, the CDA will only consider transfer requests from residents that meet the following requirements:

- Have not engaged in criminal activity that threatens the health and safety or residents andstaff
- Owe no back rent or other charges, or have a pattern of late payment
- Have no housekeeping lease violations or history of damaging property
- Can get utilities turned on in the households name (applicable only to properties withtenant-paid utilities)

A resident with housekeeping standards violations will not be transferred until the resident passes follow-up housekeeping inspection(s).

Exceptions to the good record requirement may be made when it is to the CDA's advantage to make the transfer. Exceptions may also be made when the CDA determines that a transfer is necessary to protect the health or safety of a resident who is a victim of domestic violence, dating violence, sexual assault, or stalking and who provides documentation of abuse in accordance with section 16-VII.D of this ACOP.

If a family requested to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines, the family will not be eligible to transfer to a larger size unit for a period of two years from the date of admission, unless they have a change in family size or composition, or it is needed as a reasonable accommodation.

12-III.D. SECURITY DEPOSITS

CDA Policy

The family will be required to pay a new security deposit upon acceptance of a new unit. The amount of the deposit will be equal to the family's current TTP or $500 minimum for ScatteredSite and $350 minimum for Colleen Loney Manor, whichever is greater.

Security deposits from the "old" unit will be refunded minus any damage or cleaning charges applicable to that unit. The resident will be responsible for charges that exceed the security deposit.

12-III.E. COST OF TRANSFER

The CDA must pay moving expenses to transfer a resident with a disability to an accessible unit as an accommodation for the resident's disability [Notice PIH 2010-26].

CDA Policy

The resident will bear all the moving expenses associated with all other resident-requested transfers.

12-III.F. HANDLING OF REQUESTS

CDA Policy

Residents requesting transfer to another unit or development will be required to submit a written request for transfer. The CDA will respond by approving the transfer and putting the family on the transfer list, by denying the transfer, or by requiring more information or documentation from the family, such asdocumentation of domestic violence, dating violence, sexual assault, or stalking in accordance with section 16-VII.D of this ACOP.

The CDA will respond within thirty (30) days of the submission of the family's request. If the CDA denies the request for transfer, the family will be informed of its grievance rights.

PART IV: TRANSFER PROCESSING

12-IV.A. OVERVIEW

Generally, families who request a transfer should be placed on a transfer list and processed in a consistent and appropriate order. The transfer process must be clearly auditable to ensure that residents do not experience inequitable treatment.

12-IV.B. TRANSFER LIST

CDA Policy

The CDA will maintain a centralized transfer list to ensure that transfers are processed in the correct order and that procedures are uniform across all properties.

Emergency transfers will not automatically go on the transfer list. Instead emergency transfers will be handled immediately, on a case by case basis. If the emergency cannot be resolved by a temporary accommodation, and the resident requires a permanent transfer, the family will be placed at the top of the transfer list.

Transfers will be processed in the following order on the waiting list:

1. Emergency transfers (hazardous maintenance conditions)
2. High-priority transfers (verified medical condition, threat of harm or criminal activity, and reasonable accommodation)
3. Transfers to make accessible units available
4. Demolition, renovation, etc.
5. Occupancy standards
6. Other CDA-required transfers
7. Other resident-requested transfers

Within each category, transfers will be processed in order of the date a family was placed on the transfer list, starting with the earliest date.

With the approval of the Director of Property Management, the CDA may, on a case-by-case basis, transfer a family without regard to its placement on the transfer list in order to address the immediate need of a family in crisis.

Demolition and renovation transfers will gain the highest priority as necessary to allow the CDA to meet the demolition or renovation date.

Transfers will take precedence over waiting list admissions unless it creates an undue burden on the CDA.

12-IV.C. TRANSFER OFFER POLICY

CDA Policy

Residents will receive one offer of a transfer.

When the transfer is required by the CDA, the refusal of that offer without good cause will result in lease termination.

When the transfer has been requested by the resident, the refusal of that offer without good cause will result in the removal of the family from the transfer list. In such cases, the family must wait twelve months (1 year) to reapply for another transfer.

12-IV.D. GOOD CAUSE FOR UNIT REFUSAL

CDA Policy

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

- The family demonstrates to the CDA's satisfaction that accepting the unit offer will require an adult household member to quit a job, drop out of an educational institution orjob training program, or take a child out of day care or an educational program for children with disabilities.
- The family demonstrates to the CDA's satisfaction that accepting the offer will place a family member's life, health or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders, other court orders, risk assessmentsrelated to witness protection from a law enforcement agency, or documentation of domestic violence, dating violence, or stalking in accordance with section 16-VII.D of this ACOP. Reasons offered must be specific to the family. Refusals due to location alonedo not qualify for this good cause exemption.
- A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final application) orlive-in aide necessary to the care of the principal household member.
- The unit is inappropriate for the applicant's disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a 60-day noticeto move.
- The unit has lead-based paint and the family includes children under the age of six.

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

12-IV.E. DECONCENTRATION

CDA Policy

If subject to deconcentration requirements, the CDA will consider its deconcentration goals when transfer units are offered. When feasible, families above the Established Income Range will be offered a unit in a development that is below the Established Income Range, and vice versa, to achieve the CDA's deconcentration goals. A deconcentration offer will be considered a "bonus" offer; that is, if a resident refuses a deconcentration offer, the resident will receive one additional transfer offer.

12-IV.F. REEXAMINATION POLICIES FOR TRANSFERS

CDA Policy

The reexamination date will remain the original move in date prior to any transfer taking place.

Chapter 13

LEASE TERMINATIONS

INTRODUCTION

Either party to the dwelling lease agreement may terminate the lease in accordance with the terms of the lease. A public housing lease is different from a private dwelling lease in that the family's rental assistance is tied to their tenancy. When the family moves from their public housing unit, they lose their rental assistance. Therefore, there are additional safeguards to protect the family's tenancy in public housing.

Likewise, there are safeguards to protect HUD's interest in the public housing program. The CDA has the authority to terminate the lease because of the family's failure to comply with HUD regulations, for serious or repeated violations of the terms of the lease, and for other good cause. HUD regulations also specify when termination of the lease is mandatory by the CDA.

When determining CDA policy on terminations of the lease, the CDA must consider state and local landlord-tenant laws in the area where the CDA is located. Such laws vary from one location to another, and these variances may be either more or less restrictive than federal law or HUD regulation.

This chapter presents the policies that govern voluntary termination of the lease by the family and the mandatory and voluntary termination of the lease by the CDA. It is presented in four parts:

Part I: Termination by Tenant. This part discusses the CDA requirements for voluntary termination of the lease by the family.

Part II: Termination by CDA - Mandatory. This part describes circumstances when termination of the lease by the CDA is mandatory. This part also explains nonrenewal of the lease for noncompliance with community service requirements.

Part III: Termination by CDA – Other Authorized Reasons. This part describes the CDA's options for lease termination that are not mandated by HUD regulation but for which HUD authorizes CDAs to terminate. For some of these options HUD requires the CDA to establish policies and lease provisions for termination, but termination is not mandatory. For other options the CDA has full discretion whether to consider the options as just cause to terminate as long as the CDA policies are reasonable, nondiscriminatory, and do not violate state or local landlord-tenant law. This part also discusses the alternatives that the CDA may consider in lieu of termination, and the criteria the CDA will use when deciding what actions to take.

Part IV: Notification Requirements. This part presents the federal requirements for disclosure of criminal records to the family prior to termination, the HUD requirements and CDA policies regarding the timing and content of written notices for lease termination and eviction, and notification of the post office when eviction is due to criminal activity. This part also discusses record keeping related to lease termination.

PART I: TERMINATION BY TENANT

13-I.A. TENANT CHOOSES TO TERMINATE THE LEASE [24 CFR 966.4(k)(1)(ii) and 24 CFR 966.4(l)(1)]

The family may terminate the lease at any time, for any reason, by following the notification procedures as outlined in the lease. Such notice must be in writing and delivered to the property site office or the CDA central office or sent by pre-paid first-class mail, properly addressed.

CDA Policy

If a family desires to move and terminate their tenancy with the CDA, they must give at least 60 days (last day proceeding two full calendar months) advance written notice to the CDA of their intent to vacate.

PART II: TERMINATION BY CDA – MANDATORY

13-II.A. OVERVIEW

HUD requires mandatory termination of the lease for certain actions or inactions of the family. There are other actions or inactions of the family that constitute *grounds* for lease termination, but the lease termination is not mandatory. The CDA must establish policies for termination of the lease in these cases where termination is optional for the CDA.

For those tenant actions or failures to act where HUD requires termination, the CDA has no such option. In those cases, the family's lease must be terminated. This part describes situations in which HUD requires the CDA to terminate the lease.

13-II.B. FAILURE TO PROVIDE CONSENT [24 CFR 960.259(a) and (b)]

The CDA must terminate the lease if any family member fails to sign and submit any consent form s/he is required to sign for any reexamination. See Chapter 7 for a complete discussion of consent requirements.

13-II.C. FAILURE TO DOCUMENT CITIZENSHIP [24 CFR 5.514(c) and (d) and 24 CFR 960.259(a)]

The CDA must terminate the lease if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family, resulting in no eligible family members; or (3) a family member, as determined by the CDA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. For (3), such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated.

See Chapter 7 for a complete discussion of documentation requirements.

13-II.D. FAILURE TO DISCLOSE AND DOCUMENT SOCIAL SECURITY NUMBERS [24 CFR 5.218(c), 24 CFR 960.259(a)(3), Notice PIH 2012-10]

The CDA must terminate assistance if a participant family fails to disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number.

However, if the family is otherwise eligible for continued program assistance, and the CDA determines that the family's failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the family's control, the CDA may defer the family's termination and provide the opportunity to comply with the requirement within a period not to exceed 90 calendar days from the date the CDA determined the family to be noncompliant.

CDA Policy

The CDA will defer the family's termination and provide the family with the opportunity to comply with the requirement for a period of 90 calendar days for circumstances beyond the resident's control such as delayed processing of the SSN application by the SSA, natural disaster,

fire, death in the family, or other emergency, if there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.

See Chapter 7 for a complete discussion of documentation and certification requirements.

13-II.E. FAILURE TO ACCEPT THE CDA'S OFFER OF A LEASE REVISION [24 CFR 966.4(l)(2)(ii)(E)]

The CDA must terminate the lease if the family fails to accept the CDA's offer of a lease revision to an existing lease, provided the CDA has done the following:

- The revision is on a form adopted by the CDA in accordance with 24 CFR 966.3 pertaining to requirements for notice to tenants and resident organizations and their opportunity to present comments.
- The CDA has made written notice of the offer of the revision at least 60 calendar days before the lease revision is scheduled to take effect.
- The CDA has specified in the offer a reasonable time limit within that period for acceptance by the family.

See Chapter 8 for information pertaining to CDA policies for offering lease revisions.

13-II.F. METHAMPHETAMINE CONVICTION [24 CFR 966.4(l)(5)(i)(A)]

The CDA must immediately terminate the lease if the CDA determines that any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

See Part 13-III.B. below for the HUD definition of *premises.*

13-II.G. LIFETIME REGISTERED SEX OFFENDERS [Notice PIH 2012-28]

Should a CDA discover that a member of an assisted household was subject to a lifetime registration requirement at admission and was erroneously admitted after June 25, 2001, the CDA must immediately terminate assistance for the household member.

In this situation, the CDA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the CDA must terminate assistance for the household.

13-II.H. NONCOMPLIANCE WITH COMMUNITY SERVICE REQUIREMENTS [24 CFR 966.4(l)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)(2)(ii) and (c)]

The CDA is prohibited from renewing the lease at the end of the 12 month lease term when the family fails to comply with the community service requirements as described in Chapter 11.

13-II.I. DEATH OF A SOLE FAMILY MEMBER [Notice PIH ~~2012-4~~2026-11]

~~The CDA must immediately terminate the lease following the death of the sole family member~~.

After confirming the death of the HOH, PHAs must process an EOP action terminating rental assistance. PHAs must list the EOP date as the date of death in the Deceased Tenants Report (or the date of death as confirmed by an obituary or death record, if the date is not available in the Deceased Tenants Report). For the purposes of completing the EOP Form HUD-50058, this is the date the public housing lease is terminated

If the PHA discovers unauthorized occupants who fail to vacate the unit (including a live-in aide who remains after the death of the HOH), the PHA must pursue judicial intervention to have them lawfully removed. PHAs must comply with all tenant and landlord laws with respect to lease termination, regaining possession of the premises upon death, removal of personal belongings from the public housing unit, and adverse possession claims. PHAs may be found liable for a wrongful eviction for changing the locks to prevent unauthorized occupants from entering the unit.

Family Absence from Unit [24 CFR 982.551(i)]

It is reasonable that the family may be absent from the public housing unit for brief periods. However, the PHA needs a policy on how long the family may be absent from the unit. *Absence* in this context means that no member of the family is residing in the unit. At its discretion, the PHA may allow absence for a lesser period in accordance with PHA policy. The lease will terminate if the family is absent for longer than the maximum period permitted.

The family must supply any information or certification requested by the PHA to verify that the family is residing in the unit or relating to family absence from the unit. The family must cooperate with the PHA for this purpose. The family must promptly notify the PHA of absence from the unit, including any information requested on the purposes of family absences.

The PHA may adopt appropriate techniques to verify family occupancy or absence, including letters to the family at the unit, phone calls, visits, or questions to the landlord or neighbors.
The PHA's ACOP must state the PHA policies on family absence from the dwelling unit. The PHA absence policy includes how the PHA determines whether or when the family may be absent, and for how long; and any provision for resumption of assistance after an absence, including readmission or resumption of assistance to the family.

CDA Policy

The family is required to notify the CDA when all family members will be absent from the unit for any period greater than 30 calendar days. Written notice must be provided to the CDA at the start of the extended absence.

Upon CDA request, the family must provide any additional information to the CDA related to the family's absence from the unit to confirm their continued residency in the unit. The CDA may take the following actions to determine whether the family is absent from the unit:

- Write letters to the family at the unit;
- Telephone the family at the unit;
- Interview neighbors;
- Verify whether utilities are in service; and/or
- Check with the post office.

If a family is absent from the public housing unit for more than 60 consecutive days, and the family does not adequately verify that they are living in the unit, the CDA will terminate the lease for other good cause.

A family terminated due to CDA error will be reinstated retroactively. Any family terminated due to absence from the unit may reapply for assistance when the waiting list is open.

13-II.J. OVER-INCOME FAMILIES [24 CFR 960.507; FR Notice 7/26/18; Notice PIH 2023-03; FR Notice 2/14/23]

In the public housing program, an *over-income family* is defined as a family whose annual income exceeds the over-income limit for 24 consecutive months. When this occurs, the PHA must either:

- Terminate the family's tenancy within six months of the PHA's final notification of the end of the 24-month grace period; or
- Within 60 days of the PHA's final notification of the end of the 24-month grace period or the next lease renewal (whichever is sooner), have the family execute a new lease that is consistent with 24 CFR 960.509 and charge the family a monthly rent that is the higher of the applicable fair market rent (FMR) or the amount of monthly subsidy for the unit, including amounts from the operating and capital funds.

PHA Policy

For families whose income exceeds the over-income limit for 24 consecutive months, the PHA will not terminate the family's tenancy and will charge the family the alternative non-public housing rent, as well as require the family to sign a new non-public housing lease in accordance with the continued occupancy policies below.

All PHAs, regardless of size, must implement over-income policies. However, if a PHA owns or operates fewer than 250 public housing units and admits families whose annual income exceeds the low-income limit because there are no income-eligible families on the PHA's waiting list in accordance with 24 CFR 960.503, the over-income limit regulation does not apply to tenant families [24 CFR 950.503]. This regulation is unrelated to HOTMA 103 [24 CFR 960.507]. This is because these families are considered unassisted tenants are not participants in the public housing program.

Over-Income Limit [Notice PIH 2023-03; HOTMA 103 FAQs, December 2024]

The PHA must publish over-income limits in their ACOP and update them no later than 60 days after HUD publishes new income limits each year. The over-income limit is calculated by multiplying the very low-income limit (VLI) by 2.4, as adjusted for family size. When determining whether a family is over-income, the PHA must use the applicable income limit for the current number of family members, not including any household members. Further, the over-income limit is based on the family's annual income, rather than their adjusted income.

CDA Policy

The CDA will rely on HUD publishing new income limits each year and will be effective for all annual and interim reexaminations once these policies have been adopted.

Decreases in Income [24 CFR 960.507(c)(4)]

If, at any time during the consecutive 24-month period following the initial over-income determination, the PHA determines that the family's income is below the over-income limit, the PHA's over-income policies no longer apply to the family. If the PHA later determines that the family's income exceeds the over-income limit at a subsequent annual or interim reexamination, the family is entitled to a new 24 consecutive month period and new notices under this section.

CDA Policy

If, at any time during the 24-month period following the initial over-income determination, an over-income family experiences a decrease in income, the family may request an interim redetermination of rent in accordance with CDA policy in Chapter 9.

If, as a result, the previously over-income family is now below the over-income limit, the family is no longer subject to over-income provisions as of the effective date of the recertification. The CDA will notify the family in writing within 10 business days of the determination that over-income policies no longer apply to them.

Initial Notice of Over-Income Status [24 CFR 960.507(c)(1); Notice PIH 2023-03; HOTMA 103 FAQs, December 2024]

The PHA is required to provide over-income families with three notifications within 30 days of the following points: at the initial determination when a family's income first exceeds the limit, at 12 months after the family continues to exceed the limit, and at 24 months of continuously exceeding the limit. If proper notice is not given, the PHA is required to continue to allow the family to stay in the unit until all three notices have been given.

If the PHA determines the family has exceeded the over-income limit during an annual or interim reexamination, the PHA must provide written notice to the family of the over-income determination no later than 30 days after the PHA's initial over-income determination. The 24 consecutive month grace period begins on the date the PHA notifies the family (for example, the post date of the notice).

The notice must state that the family has exceeded the over-income limit and continuing to do so for a total of 24 consecutive months will result in the PHA following its continued occupancy policy for over-income families. The PHA must afford the family an opportunity for a hearing if the family disputes within a reasonable time the PHA's determination that the family has exceeded the over-income limit. However, the 24-month grace period does not restart if required notices do not include grievance rights. Exhibits 13-1 and 13-2 provide sample initial notices based on HUD's model notices.

CDA Policy

At annual or interim reexamination, if a family's income exceeds the applicable over-income limit, within 10 business days of the determination, the CDA will notify the family in writing of the determination. The notice will state that if the family continues to be over income for 24 consecutive months, the family will be subject to the CDA's over-income policies. The notice will state that the family may request a hearing if the family disputes the CDA's determination in accordance with CDA policies in Chapter 14. The CDA will ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other impairments.

Second Notice of Over-Income Status [24 CFR 960.507(c)(2); Notice PIH 2023-03; Notice PIH 2023-27]

The PHA must conduct an income examination 12 months after the initial over-income determination, even if the family is paying flat rent, unless the PHA determined the family's income fell below the over-income limit since the initial over-income determination. This includes when the PHA makes an initial determination that a family is over income during an interim reexamination. In this case the PHA must conduct a second interim reexamination 12 months after the over-income determination, unless the family's income falls below the over-income limit during the 24-month period. See Chapter 9 for PHA policies on interims for over-income families.

If the PHA determines the family continues to exceed the over-income limit for 12 consecutive months, the PHA must provide written notification of this 12-month over-income determination no later than 30 days after the income examination. The notice must state that the family has exceeded the over-income limit for 12 consecutive months and continuing to do so for a total of 24 consecutive months will result in the PHA following its continued occupancy policy for over-income families. Additionally, if applicable under PHA policy, the notice must include an estimate (based on current data) of the alternative non-public housing rent for the family's unit. The PHA must afford the family an opportunity for a hearing if the family disputes within a reasonable time the PHA's determination that the family has exceeded the over-income limit. However, the 24-month grace period does not restart if required notices do not include grievance rights. Exhibits 13-3 and 13-4 provide sample 12-month notices based on HUD's model notices.

CDA Policy

If a family's income continues to exceed the applicable over-income limit after 12 consecutive months, within 10 business days of the determination, the CDA will notify the family in writing of the determination. The notice will state that if the family continues to be over income for 24 consecutive months, the family will be subject to the CDA's over-income policies. The notice will provide an estimate of the alternative non-public housing rent applicable to the family at the close of the 24 consecutive month period. The notice will also state that the family may request a hearing if the family disputes the CDA's determination in accordance with CDA policies in Chapter 14. The CDA will ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other impairments.

Final Notice of Over-Income Status [24 CFR 960.507(c)(3) and 960.509; Notice PIH 2023-03; Notice PIH 2023-27; HOTMA 103 FAQs, December 2024]

Unless the PHA determined the family's income fell below the over-income limit since the second over-income determination, the PHA must conduct an income examination 24 months after the initial over-income determination, even if the family is paying flat rent. When a PHA makes an initial determination that a family is over income during an interim reexamination, the PHA must conduct an interim reexamination 12 months after the over-income determination, and then again 12 months after the second over-income determination, unless the family's income falls below the over-income limit during the 24-month period.

If the family continues to be over income based on this determination, the PHA must provide written notification of this determination no later than 30 days after the income examination. The notice must state that the family has exceeded the over-income limit for 24 consecutive months and that the PHA will follow its continued occupancy policies for over-income families. The PHA must afford the family an opportunity for a hearing if the family disputes within a reasonable time the PHA's determination that the family has exceeded the over-income limit. However, the 24-month grace period does not restart if required notices do not include grievance rights. Exhibits 13-5 and 13-6 provide sample 24-month notices based on HUD's model notices.

CDA Policy

If a family's income exceeds the applicable over-income limit for 24 consecutive months, the CDA will notify the family in writing of the determination within 10 business days of the date of the determination. The CDA will ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other impairments. The notice will state that the family will be charged the alternative non-public housing rent in accordance with CDA continued occupancy policies and HUD regulations and provide the family's new rent amount.

The notice will also include a new non-public housing lease and inform the family that the lease must be executed by the family and the CDA no later than 60 days from the date of the notice or at the next lease renewal, whichever is sooner. The family will continue to be a public housing program participant until the family executes the new non-public housing lease. The notice will also state that failure to execute the lease within this time period stated in the notice will result in termination of tenancy no more than six months after the date of the notice. The CDA will permit an over-income family to execute a lease beyond this time period, but before termination of tenancy, if the over-income family pays the CDA the total difference between the alternative non-public housing rent and their public housing rent dating back to the point in time that the over-income family was required to execute the new lease.

Once the family signs the new non-public housing lease, the family will no longer be a public housing participant family. The family will no longer be subject to income examinations, are precluded from participating in the resident council, and cannot participate in any programs that are only for public housing or low-income families. The CDA will not provide such families with hearing or grievance rights. Units occupied by NPHOI families continue to be part of the public housing inventory and are required to be inspected in the same way as units occupied by families in the public housing program. Further, NPHOI families are still required to abide by the CDA's smoke-free policies as well as the CDA's pet rules. NPHOI families are not entitled to VAWA protections as prescribed in HUD regulations but may be entitled to protections under state and local law.

The non-public housing over-income (NPHOI) lease will contain all required provisions listed at 24 CFR 960.509. The initial term of the lease will be for one year. Upon expiration of the initial lease term, the lease will not renew automatically, and subsequent leases will state renewal terms. At any time, the CDA may terminate tenancy in accordance with 24 CFR 960.509(b)(11) and in accordance with state and local law.

Upon execution of the lease, the tenant will be required to pay the amount of monthly tenant rent (known as the alternative non-public housing rent) determined by the CDA in accordance with HUD regulations. The CDA will comply with state and local law in giving the tenant written notice stating any changes in the amount of tenant rent. Charges assessed under the lease will be due in accordance with state and local law.

NPHOI families will not receive a utility allowance. The family will be responsible for their utilities where utilities are individually metered. Where utilities are not individually metered, the NPHOI family will be charged an allocation of the total energy plus any surcharges with no utility allowance.

If an NPHOI family subsequently experiences a decrease in income after signing the NPHOI lease, the family may only be readmitted to the public housing program if they once again become an eligible low-income family and reapply to the public housing program. The family will continue to pay the alternative rent until they are readmitted to public housing.

PART III: TERMINATION BY CDA – OTHER AUTHORIZED REASONS

13-III.A. OVERVIEW

Besides requiring CDAs to terminate the lease under the circumstances described in Part II, HUD requires the CDA to establish provisions in the lease for termination pertaining to certain criminal activity, alcohol abuse, and certain household obligations stated in the regulations. While these provisions for lease termination must be in the lease agreement, HUD does not require CDAs to terminate for such violations in all cases. The CDA has the discretion to consider circumstances surrounding the violation or, in applicable situations, whether the offending household member has entered or completed rehabilitation, and the CDA may, as an alternative to termination, require the exclusion of the culpable household member. The CDA must adopt policies concerning the use of these options.

In addition, HUD authorizes CDAs to terminate the lease for other grounds, but for only those grounds that constitute serious or repeated violations of material terms of the lease or for other good cause. The CDA must develop policies pertaining to what constitutes serious or repeated lease violations, and other good cause, based upon the content of the CDA lease. In the development of the terms of the lease, the CDA must consider the limitations imposed by state and local landlord-tenant law, as well as HUD regulations and federal statutes. Because of variations in state and local landlord-tenant law, and because HUD affords CDAs wide discretion in some areas, a broad range of policies could be acceptable.

The CDA, with some restrictions, also has the option to terminate the tenancies of families who are over income.

The CDA may consider alternatives to termination and must establish policies describing the criteria the CDA will use when deciding what action to take, the types of evidence that will be acceptable, and the steps the CDA must take when terminating a family's lease.

13-III.B. MANDATORY LEASE PROVISIONS [24 CFR 966.4(l)(5)]

This section addresses provisions for lease termination that must be included in the lease agreement according to HUD regulations. Although the provisions are required, HUD does not require CDAs to terminate for such violations in all cases, therefore CDA policies are needed.

Definitions **[24 CFR 5.100]**

The following definitions will be used for this and other parts of this chapter:

Affiliated individual is defined in section 16-VII.B.

Covered person means a tenant, any member of the tenant's household, a guest, or another person under the tenant's control.

Dating violence is defined in section 16-VII.B.

Domestic violence is defined in section 16-VII.B.

Drug means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802].

Drug-related criminal activity means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with the intent to manufacture, sell, distribute, or use the drug.

Guest means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.

Household means the family and CDA-approved live-in aide. The term household also includes foster children and/or foster adults that have been approved to reside in the unit [HUD-50058, Instruction Booklet, p. 65].

Other person under the tenant's control means that the person, although not staying as a guest in the unit, is, or was at the time of the activity in question, on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not *under the tenant's control*.

Premises means the building or complex or development in which the public or assisted housing dwelling unit is located, including common areas and grounds.

Sexual assault is defined in section 16-VII.B.

Stalking is defined in section 16-VII.B.

Violent criminal activity means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

Drug Crime On or Off the Premises [24 CFR 966.4(l)(5)(i)(B)]

The lease must provide that drug-related criminal activity engaged in on or off the premises by the tenant, member of the tenant's household or guest, or any such activity engaged in on the premises by any other person under the tenant's control is grounds for termination.

CDA Policy

The CDA will terminate the lease for drug-related criminal activity engaged in on or off the premises by any resident, member of the resident's household or guest, and any such activity engaged in on the premises by any other person under the tenant's control.

The CDA will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to the drug-related criminal activity.

A record of arrest(s) will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate the lease, the CDA will consider alternatives as described in Section 13-III.D and other factors as described in Section 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the CDA may, on a case-by-case basis, choose not to terminate the lease.

Illegal Use of a Drug [24 CFR 966.4(l)(5)(i)(B)]

The lease must provide that a CDA may evict a family when the CDA determines that a household member is illegally using a drug or that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

CDA Policy

The CDA will terminate the lease when the CDA determines that a household member is illegally using a drug or the CDA determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

(A pattern of illegal drug use means more than one incident of any use of illegal drugs during the previous six months).

The CDA will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the use of illegal drugs.

A record of arrest(s) will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate the lease, the CDA will consider alternatives as described in Section 13-III.D and other factors as described in Section 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the CDA may, on a case-by-case basis, choose not to terminate the lease.

Threat to Other Residents [24 CFR 966.4(l)(5)(ii)(A)]

The lease must provide that any criminal activity by a covered person that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including CDA management staff) or by persons residing in the immediate vicinity of the premises is grounds for termination of tenancy.

CDA Policy

The CDA will terminate the lease when a covered person engages in any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including CDA management staff) or by persons residing in the immediate vicinity of the premises.

Immediate vicinity means within a three-block radius of the premises.

The CDA will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to the criminal activity.

A record of arrest(s) will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate the lease, the CDA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the CDA may, on a case-by-case basis, choose not to terminate the lease.

Alcohol Abuse [24 CFR 966.4(l)(5)(vi)(A)]

CDAs must establish standards that allow termination of tenancy if the CDA determines that a household member has engaged in abuse or pattern of abuse of alcohol that threatens the health,

safety, or right to peaceful enjoyment of the premises by other residents.

CDA Policy

The CDA will terminate the lease if the CDA determines that a household member has engaged in abuse or a pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

A pattern of such alcohol abuse means more than one incident of any such abuse of alcohol during the previous six months.

The CDA will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the abuse of alcohol.

A record of arrest(s) will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate the lease, the CDA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the CDA may, on a case-by-case basis, choose not to terminate the lease.

Furnishing False or Misleading Information Concerning Illegal Drug Use or Alcohol Abuse or Rehabilitation [24 CFR 966.4(l)(5)(vi)(B)]

CDAs must establish standards that allow termination of tenancy if the CDA determines that a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

CDA Policy

The CDA will terminate the lease if the CDA determines that a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

The CDA will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the use of illegal drugs or the abuse of alcohol, and any records or other documentation (or lack of records or documentation) supporting claims of rehabilitation of illegal drug users or alcohol abusers.

In making its decision to terminate the lease, the CDA will consider alternatives as described in Section 13-III.D and other factors as described in Section 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the CDA may, on a case-by-case basis, choose not to terminate the lease.

Other Serious or Repeated Violations of Material Terms of the Lease – Mandatory Lease Provisions [24 CFR 966.4(l)(2)(i) and 24 CFR 966.4(f)]

HUD regulations require certain tenant obligations to be incorporated into the lease. Violations of such regulatory obligations are considered to be serious or repeated violations of the lease and grounds for termination. Incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking [24 CFR 5.2005(c)(1)].

CDA Policy

The CDA will terminate the lease for the following violations of resident obligations under the lease:

- Failure to make payments due under the lease, including nonpayment of rent (see Chapter8 for details pertaining to lease requirements for payments due);
- Pattern of late rent or other charges

Failure to fulfill the following household obligations:

- Not to assign the lease or to sublease the dwelling unit. Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a household member.
- Not to provide accommodations for boarders or lodgers
- To use the dwelling unit solely as a private dwelling for the tenant and the resident's household as identified in the lease, and not to use or permit its use for any other purpose
- To abide by necessary and reasonable regulations promulgated by the CDA for the benefit and well-being of the housing project and the residents
- To comply with all obligations imposed upon residents by applicable provisions of building and housing codes materially affecting health and safety
- To keep the dwelling unit and such other areas as may be assigned to the resident for the resident's exclusive use in a clean and safe condition
- To dispose of all waste from the dwelling unit in a sanitary and safe manner
- To use only in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appurtenances including elevators
- To refrain from, and to cause the household and guests to refrain from destroying, defacing, damaging, or removing any part of the dwelling unit or project
- To pay reasonable charges (other than for normal wear and tear) for the repair of damages to the dwelling unit, or to the project (including damages to project buildings, facilities or common areas) caused by the resident, a member of the household or a guest
- To act, and cause household members or guests to act, in a manner which will not disturb other residents' peaceful enjoyment of their accommodations and will be conducive to maintaining the project in a decent, safe and sanitary condition

In making its decision to terminate the lease, the CDA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the CDA may, on a case-by-case basis, choose not to terminate the lease.

13-III.C. OTHER AUTHORIZED REASONS FOR TERMINATION [24 CFR 966.4(l)(2) and (5)(ii)(B)]

HUD authorizes CDAs to terminate the lease for reasons other than those described in the previous sections. These reasons are referred to as "other good cause."

Other Good Cause [24 CFR 966.4(l)(2)(ii)(B) and (C)]

HUD regulations state that the CDA may terminate tenancy for other good cause. The regulations provide a few examples of other good cause, but do not limit the CDA to only those examples. The Violence Against Women Reauthorization Act of 2013 explicitly prohibits CDAs from considering incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking as "other good cause" for terminating the assistance, tenancy, or occupancy rights of the victim or threatened victim of such violence [24 CFR 5.2005(c)(1)].

CDA Policy

The CDA will terminate the lease for the following reasons.

- *Fugitive Felon or Parole Violator.* If a resident is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or violating a condition of probation or parole imposed under federal or state law.
- *Persons subject to sex offender registration requirement.* If any member of the household has, during their current public housing tenancy, become subject to a registration requirement under a state sex offender registration program.
- Discovery of facts after admission to the program that would have made the resident ineligible
- Discovery of material false statements or fraud by the resident in connection with an application for assistance or with a reexamination of income
- Failure to furnish such information and certifications regarding family composition and income as may be necessary for the CDA to make determinations with respect to rent, eligibility, and the appropriateness of the dwelling unit size
- Failure to transfer to an appropriate size dwelling unit based on family composition, upon appropriate notice by the CDA that such a dwelling unit is available
- Failure to permit access to the unit by the CDA after proper advance notification for the purpose of performing routine inspections and maintenance, for making improvements or repairs, or to show the dwelling unit for re-leasing, or without advance notice if there is reasonable cause to believe that an emergency exists
- Failure to promptly inform the CDA of the birth, adoption or court-awarded custody of a child. In such a case, promptly means within 10 days of the event.
- Failure to abide by the provisions of the CDA pet policy

- If the family has breached the terms of a repayment agreement entered into with the CDA
- If a family member has violated federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises
- If a household member has engaged in or threatened violent or abusive behavior toward CDA personnel
    - *Abusive or violent behavior towards CDA personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.
    - *Threatening* refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence

In making its decision to terminate the lease, the CDA will consider alternatives as described in Section 13-III.D and other factors described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the CDA may, on a case-by-case basis, choose not to terminate the lease.

~~***Family Absence from Unit [24 CFR 982.551(i)]***~~

~~It is reasonable that the family may be absent from the public housing unit for brief periods. However, the CDA needs a policy on how long the family may be absent from the unit. Absence in this context means that no member of the family is residing in the unit.~~

~~**Over-Income Families [24 CFR 960.261 and FR 11/26/04, p. 68786]**~~

~~Subject to certain restrictions, HUD authorizes CDAs to evict or terminate the tenancies of families because they are over income. Unless required to do so by local law, the CDA may not evict or terminate the tenancy of a family solely because the family is over income if: (1) the family has a valid contract of participation in the Family Self-Sufficiency (FSS) program, or (2) the family is currently receiving the earned income disallowance. This rule does not require CDAs to evict over-income residents, but rather gives CDAs the discretion to do so thereby making units available for applicants who are income-eligible.~~

~~**Effective March 16, 2023, the CDA may terminate a lease due to a household becoming over income.**~~

~~What is an over income family: For 24 consecutive months, the family's income exceeds the very low-income limit (adjusted for family size) multiplied by 2.4~~

- ~~Equals 120% of the AMI in most areas~~
- ~~Called the over-income limit~~
- ~~Includes families on FSS or receiving EID~~

~~What happens to over-income families?~~

- ~~After 24 consecutive months, the CDA must either:~~
    - ~~Terminate tenancy within 6 months, or~~
    - ~~Charge the family the alternative non-public housing rent which is the higher of:~~
        - ~~Applicable fair market rent (FMR) for the unit; or~~

- Amount of the monthly subsidy provided for the unit
- HUD will publish funding amounts no later than December 31st each year

Over Income Process

- Must serve the family a total of 3 notices:
  - At initial determination that they are over-income
  - At the conclusion of the first 12 months
  - At the conclusion of 24 months

Over-Income Process: Initial Determination

- If family exceeds the over-income limit at the annual or interim, must provide written notice no later than 30 days after the determination, stating:
  - Family has exceeded the over-income limit
  - Continuing to do so for 24 consecutive months will result in the CDA following its policy for over-income families
  - The family has the opportunity for a hearing

Over-Income Process: Year One

- If family exceeds the over-income limit for 12 consecutive months, must provide written notice to later than 30 days after determination, stating:
  - Family has exceeded the over-income limit for 12 consecutive months
  - Continuing to do so fo r24 months will result in the CDA following its over-income policy
  - An estimated amount of the alternative non-public housing rent for the unit (if applicable)
  - Family has an opportunity for a hearing

Over-Income Process: Year Two

- If family exceeds the over-income limit for 24 consecutive months, must provide written notice no later than 30 days after the determination, stating:
  - Family has exceeded the over-income limit for 24 consecutive months
  - CDA will terminate or charge the alternative non-public housing rent (as applicable)
  - Family has an opportunity for a hearing.

Asset Limitation [24 CFR 5.618; Notice PIH 2023-27]

The PHA has discretion with respect to the application of the asset limitation at annual and interim reexamination. The PHA may adopt a written policy of total nonenforcement, enforcement, or limited enforcement as well as adopting exception policies.

CDA Policy

The CDA has adopted a policy of total nonenforcement of the asset limitation for all program participants. The

asset limitation only applies to initial eligibility determinations for new admissions to the CDA's public housing program.

13-III.D. ALTERNATIVES TO TERMINATION OF TENANCY

Exclusion of Culpable Household Member [24 CFR 966.4(l)(5)(vii)(C)]
As an alternative to termination of the lease for criminal activity or alcohol abuse HUD provides that the CDA may consider exclusion of the culpable household member. Such an alternative can be used for any other reason where such a solution appears viable in accordance with CDA policy. Additionally, under the Violence against Women Reauthorization Act of 2013, the CDA may bifurcate a lease in order to terminate the tenancy of an individual who is a tenant or lawful occupant of a unit

and engages in criminal activity directly related to domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking.

CDA Policy

The CDA will consider requiring the resident to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

As a condition of the family's continued occupancy, the head of household must certify that the culpable household member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former household member's current address upon CDA request.

Repayment of Family Debts

CDA Policy

If a family owes amounts to the CDA, as a condition of continued occupancy, the CDA will require the family to repay the full amount or to enter into a repayment agreement within 30 days of receiving notice from the CDA of the amount owed. See Chapter 16 for policies on repayment agreements.

13-III.E. CRITERIA FOR DECIDING TO TERMINATE TENANCY

A CDA that has grounds to terminate a tenancy is not required to do so, except as explained in Part II of this chapter, and may consider all of the circumstances relevant to a particular case before making a decision.

Evidence [24 CFR 982.553(c)]

For criminal activity, HUD permits the CDA to terminate the lease if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted, and without satisfying the standard of proof used for a criminal conviction.

CDA Policy

The CDA will use the preponderance of the evidence as the standard for making all termination decisions.

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Consideration of Circumstances [24 CFR 966.4(l)(5)(vii)(B)]

Although it is required that certain lease provisions exist for criminal activity and alcohol abuse, HUD provides that the CDA may consider all circumstances relevant to a particular case in order to determine whether or not to terminate the lease.

Such relevant circumstances can also be considered when terminating the lease for any other reason. The CDA will consider the following facts and circumstances before deciding whether to terminate the lease for any of the HUD required lease provisions or for any other reasons:

• The seriousness of the offending action, especially with respect to how it would affect other residents' safety or property

The extent of participation or culpability of the leaseholder, or other household members, in the offending action, including whether the culpable member is a minor or a person with disabilities, or (as discussed further in section 13-III.F) a victim of domestic violence, dating violence, sexual assault, or stalking

• The effects that the eviction will have on other family members who were not involved in the action or failure to act

• The effect on the community of the termination, or of the CDA's failure to terminate the tenancy

• The effect of the CDA's decision on the integrity of the public housing program

• The demand for housing by eligible families who will adhere to lease responsibilities

• The extent to which the leaseholder has shown personal responsibility and whether they have taken all reasonable steps to prevent or mitigate the offending action

• The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history, and the likelihood of favorable conduct in the future

• While a record of arrest(s) will not be used as the sole basis for termination, an arrest may, however, trigger an investigation to determine whether the participant actually engaged in disqualifying criminal activity. As part of its investigation, the CDA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The CDA may also consider:

- Any statements made by witnesses or the participant not included in the police report
- Whether criminal charges were filed
- Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal
- Any other evidence relevant to determining whether or not the participant engaged in disqualifying activity
- Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property
- In the case of program abuse, the dollar amount of the underpaid rent and whether or not a false certification was signed by the family

Consideration of Rehabilitation [24 CFR 966.4(l)(5)(vii)(D)]

HUD authorizes CDAs to take into consideration whether a household member who had used illegal drugs or abused alcohol and is no longer engaging in such use or abuse is participating in or has successfully completed a supervised drug or alcohol rehabilitation program.

CDA Policy

In determining whether to terminate the lease for illegal drug use or a pattern of illegal drug use, or for abuse or a pattern of abuse of alcohol, by a household member who is no longer engaging in such use or abuse, the CDA will consider whether such household member has successfully completed a supervised drug or alcohol rehabilitation program.

For this purpose the CDA will require the resident to submit evidence of the household member's successful completion of a supervised drug or alcohol rehabilitation program.

Reasonable Accommodation [24 CFR 966.7]

If the family includes a person with disabilities, the CDA's decision to terminate the family's lease is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of lease, the CDA will determine whether the behavior is related to the disability. If so, upon the family's request, the CDA will determine whether alternative measures are appropriate as a reasonable accommodation. The CDA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed lease termination. See Chapter 2 for a discussion of reasonable accommodation.

Nondiscrimination Limitation [24 CFR 966.4(l)(5)(vii)(F)]
The CDA's eviction actions must be consistent with fair housing and equal opportunity provisions of 24 CFR 5.105.

13-III.F. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

This section addresses the protections against termination of tenancy that the Violence against Women Act of 2013 (VAWA) provides for public housing residents who are victims of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking. For general VAWA requirements and CDA policies pertaining to notification, documentation, and confidentiality, see section 16-VII of this ACOP, where definitions of key VAWA terms are also located.

VAWA Protections against Termination [24 CFR 5.2005(c)]

~~VAWA provides that no person may deny assistance, tenancy, or occupancy rights to public housing to a tenant solely on the basis of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking that is engaged in by a member of the household of the tenant or any guest or other person under the control of the tenant, if the tenant or affiliated individual is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking [FR Notice 8/6/13]..~~

~~VAWA further provides that incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking may not be construed either as serious or repeated violations of the lease by the victim or threatened victim of such violence or as good cause for terminating the tenancy or occupancy rights of the victim of such violence [24 CFR 5.2005(c)(1), FR Notice 8/6/13].~~

VAWA provides that no person may deny assistance, tenancy, or occupancy rights to public housing to a tenant on the basis or as a direct result of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking that is engaged in by a member of the household of the tenant or any guest or other person under the control of the tenant, if the tenant or affiliated individual is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking [FR Notice 8/6/13].

VAWA further provides that incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking may not be construed either as serious or repeated violations of the lease by the victim or threatened victim of such violence or as good cause for terminating the tenancy or occupancy rights of the victim of such violence [24 CFR 5.2005(c)(1), FR Notice 8/6/13]. Additionally, property damage and noise complaints due to abuse cannot be used as the basis for eviction [Form HUD-5380].

- Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD's recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

PHAs and owners may not coerce, intimidate, threaten, interfere with, or retaliate against any person who exercises or

assists or encourages a person to exercise any rights or protections under VAWA [FR Notice 1/4/23].

Limits on VAWA Protections [24 CFR 5.2005(d) and (e), FR Notice 8/6/13]

~~While VAWA prohibits a CDA from using domestic violence, dating violence, sexual assault, or stalking as the cause for a termination or eviction action against a public housing tenant who is the victim of the abuse, the protections it provides are not absolute. Specifically:~~

~~• VAWA does not limit a CDA's otherwise available authority to terminate assistance to or evict a victim for lease violations not premised on an act of domestic violence, dating violence, sexual assault, or stalking providing that the CDA does not subject the victim to a more demanding standard than the standard to which it holds other tenants.~~

~~• VAWA does not limit a CDA's authority to terminate the tenancy of any public housing tenant if the CDA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant's tenancy is not terminated.~~

~~HUD regulations define *actual and imminent threat* to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm [24 CFR 5.2005(d)(2) and (e)]. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:~~

~~• The duration of the risk~~

~~• The nature and severity of the potential harm~~

While VAWA prohibits a PHA from using domestic violence, dating violence, sexual assault, stalking, or human trafficking as the cause for a termination or eviction action against a public housing tenant who is the victim of the abuse, the protections it provides are not absolute. Specifically:

VAWA does not limit a PHA's otherwise available authority to terminate assistance to or evict a victim for lease violations not premised on an act of domestic violence, dating violence, sexual assault, stalking, or human trafficking providing that the PHA does not subject the victim to a more demanding standard than the standard to which it holds other tenants.

VAWA does not limit a PHA's authority to terminate the tenancy of any public housing tenant if the PHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant's tenancy is not terminated.

HUD regulations define *actual and imminent threat* to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm [24 CFR 5.2005(d)(2) and (e)]. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk
- The nature and severity of the potential harm
- The likelihood that the potential harm will occur
- The length of time before the potential harm would occur [24 CFR 5.2005(e)]

In order to demonstrate an actual and imminent threat, the PHA must have objective evidence of words, gestures, actions, or other indicators. Even when a victim poses an actual and imminent threat, however, HUD regulations authorize a PHA to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat, including but not limited to transferring the victim to a different unit, barring the perpetrator from the property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat" [24 CFR 5.2005(d)(3)]. Additionally, HUD regulations state that restrictions "predicated on public safety cannot be based on stereotypes but must be tailored to particularized concerns about individual residents" [24 CFR 5.2005(d)(3)].

~~• The likelihood that the potential harm will occur~~

~~• The length of time before the potential harm would occur [24 CFR 5.2005(e)]~~

~~Even when a victim poses an actual and imminent threat, however, HUD regulations authorize a CDA to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat, including but not limited to transferring the victim to a different unit, barring the perpetrator from the property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat" [24 CFR 5.2005(d)(3)]. Additionally, HUD regulations state that restrictions "predicated on public safety cannot be based on stereotypes, but must be tailored to particularized concerns about individual residents" [24 CFR 5.2005(d)(3)].~~

CDA Policy

In determining whether a public housing tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking is an actual and imminent threat to other tenants or those employed at or providing service to a property, the CDA will consider the following, and any other relevant, factors:

• Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, sexual assault, or stalking

• Whether the threat is a physical danger beyond a speculative threat

• Whether the threat is likely to happen within a short period of time

• Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location, transferring the victim to another unit, or seeking a legal remedy to prevent the perpetrator from acting on the threat

If the tenant wishes to contest the CDA's determination that he or she is an actual and imminent threat to other tenants or employees, the tenant may do so as part of the grievance hearing or in a court proceeding.

Documentation of Abuse [24 CFR 5.2007]

CDA Policy

When an individual facing termination of tenancy for reasons related to domestic violence, dating violence, sexual assault, or stalking claims protection under VAWA, the CDA will request in writing that the individual provide documentation supporting the claim in accordance with the policies in section 16-VII.D of this ACOP.

The CDA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases the CDA will document the waiver in the individual's file.

Terminating or Evicting a Perpetrator of Domestic Violence

Although VAWA provides protection from termination for victims of domestic violence, it does not provide such protection for perpetrators. In fact, VAWA gives the CDA the explicit authority to bifurcate a lease, or remove a household member from a lease, "in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant of the housing and who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual, without evicting, removing, terminating assistance to, or otherwise penalizing a victim of such criminal activity who is also a tenant or lawful occupant of the housing" [FR Notice 8/6/13]. Moreover, HUD regulations impose on the CDA the obligation to

consider lease bifurcation in any circumstances involving domestic violence, dating violence, or stalking [24 CFR 966.4(e)(9)].

Specific lease language affirming the CDA's authority to bifurcate a lease is not necessary, and the authority supersedes any local, state, or federal law to the contrary. However, if the CDA chooses to exercise its authority to bifurcate a lease, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law for eviction, lease termination, or termination of assistance. This means that the CDA must follow the same rules when terminating or evicting an individual as it would when terminating or evicting an entire family [FR Notice 3/16/07].

CDA Policy

The CDA will bifurcate a family's lease and terminate the tenancy of a family member if the CDA determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the tenancy or program assistance of the remaining, nonculpable family members.

In making its decision, the CDA will consider all credible evidence, including, but not limited to, a signed certification (form HUD-5382) or other documentation of abuse submitted to the CDA by the victim in accordance with this section and section 16-VII.D. The CDA will also consider the factors in section 13.III.E. Upon such consideration, the CDA may, on a case-by-case basis, choose not to bifurcate the lease and terminate the tenancy of the culpable family member.

If the CDA does bifurcate the lease and terminate the tenancy of the culpable family member, it will do so in accordance with the lease, applicable law, and the policies in this ACOP. If the person removed from the lease was the only tenant eligible to receive assistance, the CDA must provide any remaining tenant a chance to establish eligibility for the unit. If the remaining tenant cannot do so, the CDA must provide the tenant reasonable time to find new housing or to establish eligibility for another housing program covered by VAWA 2013.

PART IV: NOTIFICATION REQUIREMENTS, EVICTION PROCEDURES AND RECORD KEEPING

13-IV.A. OVERVIEW

HUD regulations specify the requirements for the notice that must be provided prior to lease termination. This part discusses those requirements and the specific requirements that precede and follow termination for certain criminal activities which are addressed in the regulations. This part also discusses specific requirements pertaining to the actual eviction of families and record keeping.

13-IV.B. CONDUCTING CRIMINAL RECORDS CHECKS [24 CFR 5.903(e)(ii) and 24 CFR 960.259]

HUD authorizes PHAs to conduct criminal records checks on public housing residents for lease enforcement and eviction. PHA policy determines when the PHA will conduct such checks.

CDA Policy

The CDA may conduct criminal records checks when it has come to the attention of the CDA, either from local law enforcement or by other means, that an individual has engaged in the destruction of property, engaged in violent activity against another person, or has interfered with the right to peaceful enjoyment of the premises of other residents. Such checks will also include sex offender registration information. In order to obtain such information, all adult household members must sign consent forms for release of criminal conviction and sex offender registration records on an annual basis.

The PHA may not pass along to the tenant the costs of a criminal records check.

13-IV.C. DISCLOSURE OF CRIMINAL RECORDS TO FAMILY [24 CFR 5.903(f), 24 CFR 5.905(d) and 24 CFR 966.4(l)(5)(iv)]

In conducting criminal records checks, if the PHA uses the authority of 24 CFR 5.903 and 5.905 to obtain such information, certain protections must be afforded the tenant before any adverse action is taken. In such cases if the PHA obtains criminal records information from a state or local agency showing that a household member has been convicted of a crime, or is subject to a sex offender registration requirement, relevant to lease enforcement or eviction, the PHA must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of such information, and an opportunity to dispute the accuracy and relevance of the information before an eviction or lease enforcement action is taken.

CDA Policy

In all cases where criminal record or sex offender registration information would result in lease enforcement or eviction, the CDA will notify the household in writing of the proposed adverse action and will provide the subject of the record and the tenant a copy of such information, and an opportunity to dispute the accuracy and relevance of the information before an eviction or lease enforcement action is taken.

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

Should the tenant not exercise their right to dispute prior to any adverse action, the tenant still has the right to dispute in the grievance hearing or court trial.

13-IV.D. LEASE TERMINATION NOTICE [24 CFR 966.4(l)(3)]

Form, Delivery, and Content of the Notice

Notices of lease termination must be in writing. The notice must state the specific grounds for termination, the date the termination will take place, the resident's right to reply to the termination notice, and their right to examine PHA documents directly relevant to the termination or eviction. If the PHA does not make the documents available for examination upon request by the tenant, the PHA may not proceed with the eviction [24 CFR 996.4(m)]. Notices of lease termination must be provided in accessible formats to ensure effective communication for individuals with disabilities.

All notices of lease termination due to a tenant's failure to pay rent must also include:

- Instructions on how the tenant can cure the nonpayment of rent violation, including:
  - An itemized amount separated by month of alleged rent owed by the tenant;
  - Any other arrearages allowed by HUD and included in the lease separated by month; and
  - The date by which the tenant must pay the amount of rent owed before an eviction for nonpayment of rent can be filed;
- Information on how the tenant may recertify their income, request a minimum rent hardship exemption, or a request to switch from flat rent to income-based rent; and
- In the event of a Presidential declaration of a national emergency, information as required by HUD.

For notices of lease termination due to a tenant's failure to pay rent, the PHA must not provide tenants with a termination notice prior to the day after the rent is due according to the lease. The PHA must not proceed with filing an eviction if the tenant pays the alleged amount of rent owed within the 30-day notification period [24 CFR 966.4(r)].

If the tenant pays the full amount of the alleged rent owed but not the arrearages, the nonpayment will still be considered cured, and an eviction for nonpayment of rent cannot be filed. However, HUD emphasizes that the protections in this rule do not apply to other types of evictions that result from non-rent lease violations, such as nonpayment of arrearages if allowed under the lease.

HUD also suggests the termination notice advise individuals of their right to request reasonable accommodations, include information on how individuals with disabilities can request a reasonable accommodation, and include a point of contact for reasonable accommodation requests.

CDA Policy

The notice of lease termination will include information on how the family may request a reasonable accommodation for persons with disabilities and provide contact information for the CDA's 504 coordinator.

When the PHA is required to offer the resident an opportunity for a grievance hearing, the notice must also inform the resident of their right to request a hearing in accordance with the PHA's grievance procedure. In these cases, the tenancy shall not terminate until the time for the tenant to request a grievance hearing has expired and the grievance procedure has been completed.

CDA Policy

When applicable, the notice will also state that the resident may request a remote hearing.

If the CDA will require that the hearing be conducted remotely, at the time the notice is sent to the resident informing them of the right to request a hearing, the resident will be notified that the hearing will be conducted remotely. The resident will be informed of the processes involved in a remote hearing and that the CDA will provide technical assistance, if needed, before the hearing.

When the PHA is not required to offer the resident an opportunity for a grievance hearing because HUD has made a due process determination and the lease termination is for criminal activity that threatens health, safety or right to peaceful enjoyment or for drug-related criminal activity, the notice of lease termination must state that the tenant is not entitled to a grievance hearing on the termination. It must specify the judicial eviction procedure to be used by the PHA for eviction of the tenant, and state that HUD has determined that the eviction procedure provides the opportunity for a hearing in court that contains the basic elements of due process as defined in HUD regulations. The notice must also state whether the eviction is for a criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of the PHA, or for a drug-related criminal activity on or off the premises.

CDA Policy

The CDA will attempt to deliver notices of lease termination directly to the tenant or an adult member of the household. If such attempt fails, the notice will be sent by first-class mail the same day.

All notices of lease termination will include a copy of the forms HUD-5382 and HUD-5380 to accompany the termination notice. Any tenant who claims that the cause for termination involves domestic violence, dating violence, sexual assault, stalking, or human trafficking of which the tenant or affiliated individual of the tenant is the victim will be given the opportunity to provide documentation in accordance with the policies in sections 13-III.F and 16-VII.D.

Timing of the Notice [24 CFR 966.4(l)(3)(i)]

The PHA must give written notice of lease termination of:

- At least 30 calendar days in the case of failure to pay rent
- A reasonable period of time considering the seriousness of the situation (but not to exceed 30 calendar days)

  If the health or safety of other residents, PHA employees, or persons residing in the immediate vicinity of the premises is threatened

  If any member of the household has engaged in any drug-related criminal activity or violent criminal activity

  If any member of the household has been convicted of a felony

- 30 calendar days in any other case, except that if a state or local law allows a shorter notice period, such shorter period shall apply

CDA Policy

The CDA will give written notice of 30 calendar days from the date the tenant receives the notice for nonpayment of rent, which will not be provided to tenants until the day after the day rent is due.

For all other lease terminations, the CDA will give 30 days written notice or, if state or local law allows less than 30 days, such shorter notice will be given.

The Notice to Vacate that may be required under state or local law may be combined with (run concurrently), or may run consecutive to the notice of lease termination.

CDA Policy

Any Notice to Vacate or Notice to Quit that is required by state or local law will ***[insert either "be combined with" or "run consecutive to"]*** with the Notice of Lease Termination under this section.

Notice of Nonrenewal Due to Community Service Noncompliance [24 CFR 966.4(l)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)]

When the PHA finds that a family is in noncompliance with the community service requirement, the tenant and any other noncompliant resident must be notified in writing of this determination. Notices of noncompliance will be issued in accordance with the requirements and policies in Section 11-I.E.

CDA Policy

If after receiving a notice of initial noncompliance the family does not request a grievance hearing or does not take either corrective action required by the notice within the required timeframe, a termination notice will be issued in accordance with the policies above.

If a family agreed to cure initial noncompliance by signing an agreement and is still in noncompliance after being provided the 12-month opportunity to cure, the family will be issued a notice of continued noncompliance. The notice of continued noncompliance will be sent in accordance with the policies in Section 11-I.E. and will also serve as the notice of termination of tenancy.

Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]

In cases where termination of tenancy is based on citizenship status, HUD requires the notice of termination to contain additional information. In addition to advising the family of the reasons their assistance is being terminated, the notice must also advise the family of any of the following that apply: the family's eligibility for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, the family's right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal, and the family's right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Please see Chapter 14 for the PHA's informal hearing procedures.

13-IV.E. EVICTION [24 CFR 966.4(l)(4) and 966.4(m)]

Eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The PHA may only evict the tenant from the unit by instituting a court action, unless the law of the jurisdiction permits eviction by administrative action, after a due process administrative hearing, and without a court determination of the rights and liabilities of the parties.

CDA Policy

When a family does not vacate the unit after receipt of a termination notice, by the deadline given in the notice, the CDA will follow state and local landlord-tenant law in filing an eviction action with the local court that has jurisdiction in such cases.

If the eviction action is finalized in court and the family remains in occupancy beyond the deadline to vacate given by the court, the CDA will seek the assistance of the court to remove the family from the premises as per state and local law.

The CDA may not proceed with an eviction action if the CDA has not made available the documents to be used in the case against the family and has not afforded the family the opportunity to examine and copy such documents in accordance with the provisions of 24 CFR 966.4(l)(3) and (m).

13-IV.F. NOTIFICATION TO POST OFFICE [24CFR 966.4(l)(5)(iii)(B)]

When the PHA evicts an individual or family for criminal activity, including drug-related criminal activity, the PHA will make every attempt to notify the local post office serving the dwelling unit that the individual or family is no longer residing in the unit.

13-IV.G. RECORD KEEPING

For more information concerning general record keeping, see Chapter 16.

CDA Policy

A written record of every termination and/or eviction will be maintained by the CDA, and will contain the following information:

- Name of resident, number and identification of unit occupied
- Date of the notice of lease termination and any other notices required by state or local law; these notices may be on the same form and will run concurrently
- Specific reason(s) for the notices, citing the lease section or provision that was violated and other facts pertinent to the issuing of the notices described in detail (other than any criminal history reports obtained solely through the authorization provided in 24 CFR 5.903 and 5.905)
- Date and method of notifying the resident
- Summaries of any conferences held with the resident including dates, names of conference participants, and conclusions

Chapter 14

GRIEVANCES AND APPEALS

INTRODUCTION

This chapter discusses grievances and appeals pertaining to CDA actions or failures to act that adversely affect public housing applicants or residents. The policies are discussed in the following three parts:

Part I: Informal Hearings for Public Housing Applicants. This part outlines the requirements and procedures for informal hearings for public housing applicants.

Part II: Informal Hearings with Regard to Noncitizens. This part discusses informal hearings regarding citizenship status and where they differ from the requirements for general applicant and tenant grievances.

Part III: Grievance Procedures for Public Housing Residents. This part outlines the requirements and procedures for handling grievances for public housing residents.

Note that this chapter is not the CDA's grievance procedure. The grievance procedure is a document separate from the ACOP. This chapter of the ACOP provides the policies that drive the grievance procedure.

PART I: INFORMAL HEARINGS FOR PUBLIC HOUSING APPLICANTS

14-I.A. OVERVIEW

When the CDA makes a decision that has a negative impact on an applicant family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal hearing. HUD regulations do not provide a structure for or requirements regarding informal hearings for applicants (except with regard to citizenship status, to be covered in Part II). This part discusses the CDA policies necessary to respond to applicant appeals through the informal hearing process.

14-I.B. INFORMAL HEARING PROCESS [24 CFR 960.208(a) and PH Occ GB, p. 58]

Informal hearings are provided for public housing applicants. An applicant is someone who has applied for admission to the public housing program, but is not yet a tenant in the program. Informal hearings are intended to provide a means for an applicant to dispute a determination of ineligibility for admission to a project [24 CFR 960.208(a)]. Applicants to public housing are not entitled to the same hearing process afforded tenants under the CDA grievance procedures [24 CFR 966.53(a) and PH Occ GB, p. 58].

Informal hearings provide applicants the opportunity to review the reasons for denial of admission and to present evidence to refute the grounds for denial.

Use of Informal Hearing Process

While the CDA must offer the opportunity of an informal hearing to applicants who have been determined as ineligible for admission, the CDA could make the informal hearing process available to applicants who wish to dispute other CDA actions that adversely affect them.

CDA Policy

The CDA will only offer informal hearings to applicants for the purpose of disputing denials of admission.

Notice of Denial [24 CFR 960.208(a)]

The CDA must give an applicant prompt notice of a decision denying eligibility for admission. The notice must contain a brief statement of the reasons for the CDA decision, and must also state that the applicant may request an informal hearing to dispute the decision. The notice must describe how to obtain the informal hearing.

When denying eligibility for admission, the CDA must provide the family a notice of VAWA rights as well as the HUD VAWA self-certification form (form HUD-5382) in accordance with the Violence against Women Reauthorization Act of 2013, and as outlined in 16-VII.C. The notice and self-certification form must accompany the written notification of the denial of eligibility determination.

Prior to notification of denial based on information obtained from criminal or sex offender registration records, the family, in some cases, must be given the opportunity to dispute the information in those records which would be the basis of the denial. See Section 3-III.G for details concerning this requirement.

Scheduling an Informal Hearing

CDA Policy

A request for an informal hearing must be made in writing and delivered to the CDA either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of the CDA's notification of denial of admission.

The CDA will schedule and send written notice of the informal hearing within 10 business days of the family's request.

Conducting an Informal Hearing [PH Occ GB, p. 58]

CDA Policy

The informal hearing will be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant will be provided an opportunity to present written or oral objections to the decision of the CDA.

The person conducting the informal hearing will make a recommendation to the CDA, but the CDA is responsible for making the final decision as to whether admission should be granted or denied.

Informal Hearing Decision [PH Occ GB, p. 58]

CDA Policy

The CDA must notify the applicant of the CDA's final decision, including a brief statement of the reasons for the final decision.

In rendering a decision, the CDA will evaluate the following matters:

- Whether or not the grounds for denial were stated factually in the notice
- The validity of grounds for denial of admission. If the grounds for denial are not specified in the regulations or in CDA policy, then the decision to deny assistance will be overturned. See Chapter 3 for a detailed discussion of the grounds for applicant denial.
- The validity of the evidence. The CDA will evaluate whether the facts presented prove the grounds for denial of admission. If the facts prove that there are grounds for denial, and the denial is required by HUD, the CDA will uphold the decision to deny admission.
- If the facts prove the grounds for denial, and the denial is discretionary, the CDA will consider the recommendation of the person conducting the informal hearing in making the final decision whether to deny admission.

The CDA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 10 business days of the informal hearing, to the applicant and his or her representative, if any.

If the informal hearing decision overturns the denial, processing for admission will resume.

If the family fails to appear for their informal hearing, the denial of admission will stand and the family will be so notified.

Reasonable Accommodation for Persons with Disabilities [24 CFR 966.7]

Persons with disabilities may request reasonable accommodations to participate in the informal hearing process and the CDA must consider such accommodations. The CDA must also consider reasonable accommodation requests pertaining to the reasons for denial if related to the person's disability. See Chapter 2 for more detail pertaining to reasonable accommodation requests.

PART II: INFORMAL HEARINGS WITH REGARD TO NONCITIZENS

14-II.A. HEARING AND APPEAL PROVISIONS FOR NONCITIZENS [24 CFR 5.514]

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. These special hearings are referred to in the regulations as informal hearings, but the requirements for such hearings are different from the informal hearings used to deny applicants for reasons other than immigration status.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the CDA hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the CDA informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]

As discussed in Chapters 3 and 13, the notice of denial or termination of assistance for noncitizens must advise the family of any of the following that apply:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a tenant, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with the CDA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

United States Citizenship and Immigration Services Appeal Process [24 CFR 5.514(e)]

When the CDA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the CDA must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide the CDA with a copy of the written request for appeal and proof of mailing.

CDA Policy

The CDA will notify the family in writing of the results of the USCIS secondary verification within 10 business days of receiving the results.

The family must provide the CDA with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to the CDA, of its decision. When the USCIS notifies the CDA of the decision, the CDA must notify the family of its right to request an informal hearing.

CDA Policy

The CDA will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the family's immigration status.

Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, an applicant family may request that the CDA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the CDA notice of denial, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

Informal Hearing Officer

The CDA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision.

Evidence

The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of the CDA pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

CDA Policy

The family will be allowed to copy any documents related to the hearing at a cost of $.25 per page. The family must request discovery of CDA documents no later than 12:00 p.m. on the business day prior to the hearing.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by the CDA, and to confront and cross-examine all witnesses on whose testimony or information the CDA relies.

Representation and Interpretive Services

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to request an interpreter. The CDA is obligated to provide a competent interpreter, free of charge, upon request. The family may also or instead provide its own interpreter, at the expense of the family.

Recording of the Hearing

The family is entitled to have the hearing recorded by audiotape. The CDA may, but is not required to provide a transcript of the hearing.

CDA Policy

The CDA will not provide a transcript of an audio taped hearing.

Hearing Decision

The CDA must provide the family with a written notice of the final decision, based solely on the facts presented at the hearing, within 10 business days of the date of the informal hearing. The notice must state the basis for the decision.

Retention of Documents [24 CFR 5.514(h)]

The CDA must retain for a minimum of 5 years the following documents that may have been submitted to the CDA by the family, or provided to the CDA as part of the USCIS appeal or the CDA informal hearing process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

Informal Hearing Procedures for Residents [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, a resident family may request that the CDA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the CDA notice of termination, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for resident families whose tenancy is being terminated based on immigration status is the same as for any grievance under the grievance procedures for resident families found in Part III below.

PART III: GRIEVANCE PROCEDURES FOR PUBLIC HOUSING RESIDENTS

14-III.A. REQUIREMENTS [24 CFR 966.52]

CDAs must have a grievance procedure in place through which residents of public housing are provided an opportunity to grieve any CDA action or failure to act involving the lease or CDA policies which adversely affect their rights, duties, welfare, or status. The CDA must not only meet the minimal procedural due process requirements provided under the regulations, but must also meet any additional requirements imposed by local, state or federal law.

The CDA grievance procedure will be incorporated by reference in the resident lease.

The CDA must provide at least 30 days notice to tenants and resident organizations setting forth proposed changes in the CDA grievance procedure, and provide an opportunity to present written comments. Comments submitted must be considered by the CDA before adoption of any changes to the grievance procedure by the CDA.

Residents and resident organizations will have 30 calendar days from the date they are notified by the CDA of any proposed changes in the CDA grievance procedure, to submit written comments to the CDA.

The CDA must furnish a copy of the grievance procedure to each tenant and to resident organizations.

14-III.B. DEFINITIONS [24 CFR 966.53; 24 CFR 966.51(a)(2)(i)]

There are several terms used by HUD with regard to public housing grievance procedures, which take on specific meanings different from their common usage. These terms are as follows:

- **Grievance** – any dispute which a tenant may have with respect to CDA action or failure to act in accordance with the individual tenant's lease or CDA regulations which adversely affect the individual tenant's rights, duties, welfare or status
- **Complainant** – any tenant whose grievance is presented to the CDA or at the project management office
- **Due Process Determination** – a determination by HUD that law of the jurisdiction requires that the tenant must be given the opportunity for a hearing in court which provides the basic elements of due process before eviction from the dwelling unit
- **Expedited Grievance** – a procedure established by the CDA for any grievance or termination that involves:
  - Any criminal activity that threatens the health, safety, or right to peaceful enjoyment or the CDA's public housing premises by other residents or employees of the CDA; or
  - Any drug-related criminal activity on or off the premises
- **Elements of Due Process** – an eviction action or a termination of tenancy in a state or local court in which the following procedural safeguards are required:
  - Adequate notice to the tenant of the grounds for terminating the tenancy and for eviction
  - Right of the tenant to be represented by counsel

  - Opportunity for the tenant to refute the evidence presented by the CDA including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the tenant may have
  - A decision on the merits
- **Hearing Officer/Panel** – an impartial person or persons selected by the CDA, other than the person who made or approved the decision under review, or a subordinate of that person. The individual or individuals do not need legal training.
- **Tenant** – the adult person (or persons) (other than a live-in aide)
  - Who resides in the unit, and who executed the lease with the CDA as lessee of the dwelling unit, or, if no such person now resides in the unit,
  - Who resides in the unit, and who is the remaining head of household of the tenant family residing in the dwelling unit
- **Resident Organization** – includes a resident management corporation

14-III.C. APPLICABILITY [24 CFR 966.51]

Grievances could potentially address most aspects of a CDA's operation. However, there are some situations for which the grievance procedure is not applicable.

The grievance procedure is applicable only to individual tenant issues relating to the CDA. It is not applicable to disputes between tenants not involving the CDA. Class grievances are not subject to the grievance procedure and the grievance procedure is not to be used as a forum for initiating or negotiating policy changes of the CDA.

If HUD has issued a due process determination, a CDA may exclude from the CDA grievance procedure any grievance concerning a termination of tenancy or eviction that involves:

- Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of the CDA
- Any violent or drug-related criminal activity on or off such premises

In states without due process determinations, CDAs must grant opportunity for grievance hearings for all lease terminations, regardless of cause, with the following exception: CDAs may use expedited grievance procedures for the excluded categories listed above. These expedited grievance procedures are described in Section 14-III.E. below.

If HUD has issued a due process determination, the CDA may evict through the state/local judicial eviction procedures. In this case, the CDA is not required to provide the opportunity for a hearing under the CDA's grievance procedure as described above.

The CDA is located in a HUD-declared due process state. Therefore, the CDA will not offer grievance hearings for lease terminations involving criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of the CDA, or for violent or drug-related criminal activity on or off the premises.

See Chapter 13 for related policies on the content of termination notices.

14-III.D. INFORMAL SETTLEMENT OF GRIEVANCE [24 CFR 966.54]

HUD regulations state that any grievance must be personally presented, either orally or in writing, to the CDA office or to the office of the housing development in which the complainant resides so that the grievance may be discussed informally and settled without a hearing.

CDA Policy

The CDA will accept requests for an informal settlement of a grievance in writing, to the CDA office within 10 business days of the grievable event. Within 10 business days of receipt of the request the CDA will arrange a meeting with the resident at a mutually agreeable time and confirm such meeting in writing to the resident.

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

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

HUD regulations require that a summary of such discussion will be prepared within a reasonable time and one copy will be given to the tenant and one retained in the CDA's tenant file.

The summary must specify the names of the participants, dates of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefore, and will specify the procedures by which a hearing may be obtained if the complainant is not satisfied.

CDA Policy

The CDA will prepare a summary of the informal settlement within 5 business days; one copy to be given to the resident and one copy to be retained in the CDA's resident file.

For CDAs who have the option to establish an expedited grievance procedure, and who exercise this option, the informal settlement of grievances is not applicable to those grievances for which the expedited grievance procedure applies.

14-III.E. PROCEDURES TO OBTAIN A HEARING

Requests for Hearing and Failure to Request

CDA Policy

The resident must submit a written request for a grievance hearing to the CDA within 5 business days of the resident's receipt of the summary of the informal settlement.

If the complainant does not request a hearing, the CDA's disposition of the grievance under the informal settlement process will become final. However, failure to request a hearing does not constitute a waiver by the complainant of the right to contest the CDA's action in disposing of the complaint in an appropriate judicial proceeding.

Scheduling of Hearings [24 CFR 966.56(a)]

If the complainant has complied with all requirements for requesting a hearing as described above, a hearing must be scheduled by the hearing officer/panel promptly for a time and place reasonably convenient to both the complainant and the CDA. A written notification specifying the time, place and the procedures governing the hearing must be delivered to the complainant and the appropriate CDA official.

CDA Policy

Within 10 business days of receiving a written request for a hearing, the hearing officer will schedule and send written notice of the hearing to both the complainant and the CDA.

The CDA may wish to permit the tenant to request to reschedule a hearing for good cause.

CDA Policy

The resident may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family. Requests to reschedule a hearing must be made in writing prior to the hearing date. At its discretion, the CDA may request documentation of the "good cause" prior to rescheduling the hearing.

Expedited Grievance Procedure [24 CFR 966.52(a)]

The CDA may establish an expedited grievance procedure for any grievance concerning a termination of tenancy or eviction that involves:

- Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or employees of the CDA, or
- Any drug-related criminal activity on or near such premises

In such expedited grievances, the informal settlement of grievances as discussed in 14-III.D is not applicable.

The CDA may adopt special procedures concerning expedited hearings, including provisions for expedited notice or scheduling, or provisions for expedited decision on the grievance.

CDA Policy

The CDA will follow expedited grievance procedures for any grievance concerning a termination of tenancy or eviction that involves any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or employees of the CDA, or any drug-related criminal activity on or near such premises.

Such procedures will provide for an expedited notice of hearing request, an expedited scheduling of the hearing, and for an expedited decision on the grievance. The resident will have 3 business days to make their hearing request. The hearing officer will have 3 business days to schedule the hearing, and 3 business days to render a decision. All other aspects of the expedited grievance process shall be the same as for other grievances.

14-III.F. SELECTION OF HEARING OFFICER/PANEL [24 CFR 966.53(e)]

The grievance hearing must be conducted by an impartial person or persons appointed by the CDA, other than the person who made or approved the CDA action under review, or a subordinate of such person. The CDA must describe their policies for selection of a hearing officer in their lease.

CDA Policy

CDA grievance hearings will be conducted by a single hearing officer and not a panel.

CDAs must describe their policies for selection of a hearing officer in their lease forms. Changes to the public housing lease are subject to a 30-day comment period (24 CFR 966.4)

14-III.G. PROCEDURES GOVERNING THE HEARING [24 CFR 966.56]

Rights of Complainant [24 CFR 966.56(b)]

The complainant will be afforded a fair hearing. This includes:

- The opportunity to examine before the grievance hearing any CDA documents, including records and regulations that are directly relevant to the hearing. The tenant must be allowed to copy any such document at the tenant's expense. If the CDA does not make the document available for examination upon request by the complainant, the CDA may not rely on such document at the grievance hearing.

CDA Policy

The resident will be allowed to copy any documents related to the hearing at a cost of $.25 per page. The family must request discovery of CDA documents no later than 12:00 p.m. on the business day prior to the hearing.

- The right to be represented by counsel or other person chosen to represent the tenant, and to have such person make statements on the tenant's behalf.
- The right to a private hearing unless the complainant requests a public hearing.
- The right to present evidence and arguments in support of the tenant's complaint, to controvert evidence relied on by the CDA or project management, and to confront and cross-examine all witnesses upon whose testimony or information the CDA or project management relies.

A decision based solely and exclusively upon the facts presented at the hearing.

CDA Policy

- Hearings may be attended by the following applicable persons:
- A CDA representative and any witnesses for the CDA
- The resident and any witnesses for the resident
- The resident's counsel or other representative
- Any other person approved by the CDA as a reasonable accommodation for a person with a disability

Failure to Appear [24 CFR 966.56(c)]

If the complainant or the CDA fails to appear at a scheduled hearing, the hearing officer/panel may make a determination to postpone the hearing for no more than five business days or may make a determination that the party has waived his/her right to a hearing. Both the complainant and the CDA must be notified of the determination by the hearing officer/panel: Provided, That a determination that the complainant has waived his/her right to a hearing will not constitute a waiver of any right the complainant may have to contest the CDA's disposition of the grievance in an appropriate judicial proceeding.

There may be times when a complainant does not appear due to unforeseen circumstances which are out of their control and are no fault of their own.

CDA Policy

If the resident does not appear at the scheduled time of the hearing, the hearing officer will wait up to 30 minutes. If the resident appears within 30 minutes of the scheduled time, the hearing will be held. If the resident does not arrive within 30 minutes of the scheduled time, they will be considered to have failed to appear.

If the resident fails to appear, the CDA will not reschedule the hearing unless needed as a reasonable accommodation for a person with disabilities.

General Procedures [24 CFR 966.56(d), (e)]

At the hearing, the complainant must first make a showing of an entitlement to the relief sought and thereafter the CDA must sustain the burden of justifying the CDA action or failure to act against which the complaint is directed [24 CFR 966.56(d)].

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

CDA Policy

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

- **Oral evidence**: the testimony of witnesses
- **Documentary evidence**: a writing which is relevant to the case, for example, a letter written to the CDA. Writings include all forms of recorded communication or representation, including letters, emails, words, pictures, sounds, videotapes or symbols or combinations thereof.
- **Demonstrative evidence**: Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.
- **Real evidence**: A tangible item relating directly to the case.

Hearsay Evidence is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

If the CDA fails to comply with the discovery requirements (providing the resident with the opportunity to examine CDA documents prior to the grievance hearing), the hearing officer will refuse to admit such evidence.

Other than the failure of the CDA to comply with discovery requirements, the hearing officer has the authority to overrule any objections to evidence.

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

CDA Policy

If the complainant would like the CDA to record the proceedings by audiotape, the request must be made to the CDA by 12:00 p.m. on the business day prior to the hearing.

The CDA will consider that an audio tape recording of the proceedings is a transcript.

Accommodations of Persons with Disabilities [24 CFR 966.56(f)]

The CDA must provide reasonable accommodation for persons with disabilities to participate in the hearing. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants.

If the tenant is visually impaired, any notice to the tenant which is required in the grievance process must be in an accessible format.

See Chapter 2 for a thorough discussion of the CDA's responsibilities pertaining to reasonable accommodation.

Limited English Proficiency (24 CFR 966.56(g)

The CDA must comply with HUD's LEP Final Rule in providing language services throughout the grievance process.

14-III.H. DECISION OF THE HEARING OFFICER/PANEL [24 CFR 966.57]

The hearing officer/panel must issue a written decision, stating the reasons for the decision, within a reasonable time after the hearing. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the decision must be sent to the complainant and the CDA. The CDA must retain a copy of the decision in the tenant's folder. A log of all hearing officer decisions must also be maintained by the CDA and made available for inspection by a prospective complainant, his/her representative, or the hearing officer/panel [24 CFR 966.57(a)].

CDA Policy

In rendering a decision, the hearing officer will consider the following matters:

- **CDA Notice to the Family**: The hearing officer will determine if the reasons for the CDA's decision are factually stated in the notice.
- **Discovery:** The hearing officer will determine if the family was given the opportunity to examine any relevant documents in accordance with CDA policy.
- **CDA Evidence to Support the CDA Decision**: The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support the CDA's conclusion.
- **Validity of Grounds for Termination of Tenancy (when applicable)**: The hearing officer will determine if the termination of tenancy is for one of the grounds specified in the HUD regulations and CDA policies. If the grounds for termination are not specified in the regulations or in compliance with CDA policies, then the decision of the CDA will be overturned.

The hearing officer will issue a written decision to the family and the CDA no later than 10 business days after the hearing. The report will contain the following information:

Hearing information:

- Name of the complainant
- Date, time and place of the hearing
- Name of the hearing officer
- Name of the CDA representative(s)
- Name of family representative (if any)
- Names of witnesses (if any)

Background: A brief, impartial statement of the reason for the hearing and the date(s) on which the informal settlement was held, who held it, and a summary of the results of the informal settlement. Also includes the date the complainant requested the grievance hearing.

Summary of the Evidence: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.

Findings of Fact: The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Conclusions: The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the CDA's decision.

Order: The hearing report will include a statement of whether the CDA's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the CDA to change the decision in accordance with the hearing officer's determination. In the case of termination of tenancy, the hearing officer will instruct the CDA to restore the family's status.

Procedures for Further Hearing

CDA Policy

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of the CDA will take effect and another hearing will not be granted.

Final Decision [24 CFR 966.57(b)]

The decision of the hearing officer/panel is binding on the CDA which must take the action, or refrain from taking the action cited in the decision unless the CDA Board of Commissioners determines within a reasonable time, and notifies the complainant that:

- The grievance does not concern CDA action or failure to act in accordance with or involving

the complainant's lease on CDA policies which adversely affect the complainant's rights, duties, welfare, or status; or

- The decision of the hearing officer/panel is contrary to Federal, state, or local law, HUD regulations or requirements of the annual contributions contract between HUD and the CDA

- **CDA Policy**

When the CDA considers the decision of the hearing officer to be invalid due to the reasons stated above, it will present the matter to the CDA Executive Director or his/her designee within 10 business days of the date of the hearing officer's decision. The Executive Director or his/her designee has 30 calendar days to consider the decision. If the CDA Executive Director or his/her designee decides to reverse the hearing officer's decision, it must notify the complainant within 10 business days of this decision.

A decision by the hearing officer/panel, or Board of Commissioners in favor of the CDA or which denies the relief requested by the complainant in whole or in part must not constitute a waiver of any rights, nor effect in any manner whatever, any rights the complainant may have to a subsequent trial or judicial review in court [24 CFR 966.57(c)].

Chapter 15

PROGRAM INTEGRITY

INTRODUCTION

The CDA is committed to ensuring that funds made available to the CDA are spent in accordance with HUD requirements.

This chapter covers HUD and CDA policies designed to prevent, detect, investigate and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

Part I: Preventing, Detecting, and Investigating Errors and Program Abuse. This part presents CDA policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures the CDA must and may take when errors or program abuses are found.

PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

15-I.A. PREVENTING ERRORS AND PROGRAM ABUSE

HUD created the Enterprise Income Verification (EIV) system to provide CDAs with a powerful tool for preventing errors and program abuse. CDAs are required to use the EIV system in its entirety in accordance with HUD administrative guidance [24 CFR 5.233]. CDAs are further required to:

- Provide applicants and residents with form HUD-52675, "Debts Owed to CDAs and Terminations"
- Require all adult members of an applicant or participant family to acknowledge receipt of form HUD-52675 by signing a copy of the form for retention in the family file

CDA Policy

The CDA anticipates that the vast majority of families and CDA employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure that the CDA's public housing program is administered effectively and according to the highest ethical and legal standards, the CDA will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

- The CDA will provide each applicant and resident with a copy of "Is Fraud Worth It?" (form HUD-1141-OIG), which explains the types of actions a family must avoid and thepenalties for program abuse.
- The CDA will provide each applicant and resident with a copy of "What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system publishedby HUD as an attachment to Notice PIH 2010-19. In addition, the CDA will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.
- The CDA will provide resident counseling as part of every reexamination interview inorder to clarify any confusion pertaining to program rules and requirements.
- CDA staff will be required to review and explain the contents of all HUD- and CDA-required forms prior to requesting family member signatures.
- The CDA will place a warning statement about the penalties for fraud (as described in 18
- U.S.C. 1001 and 1010) on key CDA forms and form letters that request information froma family member.
- The CDA will provide each CDA employee with the necessary training on program rulesand the organization's standards of conduct and ethics.
- At each regular reexamination the CDA staff will explain any changes in HUDregulations or CDA policy that affect residents.

For purposes of this chapter the term *error* refers to an unintentional error or omission. P*rogram abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

15-I.B. DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, the CDA will use a variety of activities to detect errors and program abuse.

Quality Control and Analysis of Data

CDA Policy

The CDA will employ a variety of methods to detect errors and program abuse, including:

- The CDA routinely will use EIV and other non-HUD sources of up-front income verification. This includes the Work Number and any other private or public databases available to the CDA.
- At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.
- The CDA will compare family-reported income and expenditures to detect possible unreported income.

Independent Audits and HUD Monitoring

Notice PIH 2015-16 requires all CDAs that expend $750,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of CDA activities and notifies the CDA of errors and potential cases of program abuse.

CDA Policy

The CDA will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of the CDA's error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

CDA Policy

The CDA will encourage staff, residents, and the public to report possible program abuse.

15-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When the CDA Will Investigate

CDA Policy

The CDA will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for the CDA to investigate, the allegation must contain at least one independently-verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

The CDA will investigate or contract with the Dakota County Sheriff's Fraud Investigation Unit when inconsistent or contradictory information is detected through file reviews and the verification process.

Consent to Release of Information [24 CFR 960.259]

The CDA may investigate possible instances of error or abuse using all available CDA and public records. If necessary, the CDA will require families to sign consent forms for the release of additional information.

Analysis and Findings

CDA Policy

The CDA will base its evaluation on a preponderance of the evidence collected during its investigation.

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence that as a whole shows that the fact sought to be proved is more probable than not. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

For each investigation the CDA will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed the CDA, and (3) what corrective measures or penalties will be assessed.

Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether the CDA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

CDA Policy

In the case of family-caused errors or program abuse, the CDA will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, (4) the effects of a particular remedy on family members who were not involved in the offense.

Notice and Appeals

CDA Policy

The CDA will inform the relevant party in writing of its findings and remedies within 10 business days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which the CDA determined the error or program abuses, (3) the remedies to be employed, and (4) the family's right to appeal the results through an informal hearing or grievance hearing (see Chapter 14).

PART II: CORRECTIVE MEASURES AND PENALTIES

15-II.A. UNDER- OR OVERPAYMENT

An under- or overpayment includes an incorrect tenant rent payment by the family, or an incorrect utility reimbursement to a family.

Corrections

Whether the incorrect rental determination is an overpayment or underpayment, the CDA must promptly correct the tenant rent and any utility reimbursement prospectively.

CDA Policy

Whether it is an overpayment or underpayment, the CDA must promptly implement the correct resident rent and any utility reimbursement.

Increases in the resident rent will be implemented on the first of the month following a written 60 day notice.

Any decreases in resident rent will become effective the first of the month following the discovery of the error.

Reimbursement

Whether the family is required to reimburse the CDA or the CDA is required to reimburse the family depends upon which party is responsible for the incorrect payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

15-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE

General administrative requirements for participating in the program are discussed throughout the ACOP. This section deals specifically with errors and program abuse by family members.

An incorrect rent determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows the CDA to use incorrect information provided by a third party.

Family Reimbursement to CDA

CDA Policy

In the case of family-caused errors or program abuse, the family will be required to repay any amounts of rent underpaid. The CDA may, but is not required to, offer the family a repayment agreement in accordance with Chapter16. If the family fails to repay the amount owed, the CDA will terminate the family's lease in accordance with the policies in Chapter 13.

CDA Reimbursement to Family

CDA Policy

The CDA will not reimburse the family for any overpayment of rent when the overpayment clearly is caused by the family.

Prohibited Actions

An applicant or resident in the public housing program must not knowingly:

- Make a false statement to the CDA [Title 18 U.S.C. Section 1001].

- Provide incomplete or false information to the CDA [24 CFR 960.259(a)(4)].
- Commit fraud, or make false statements in connection with an application for assistance or with reexamination of income [24 CFR 966.4(l)(2)(iii)(C)].

- **CDA Policy**

Any of the following will be considered evidence of family program abuse:

- Offering bribes or illegal gratuities to the CDA Board of Commissioners, employees, contractors, or other CDA representatives
- Offering payments or other incentives to a third party as an inducement for the third party to make false or misleading statements to the CDA on the family's behalf
- Use of a false name or the use of falsified, forged, or altered documents
- Intentional misreporting of family information or circumstances (e.g., misreporting of income or family composition)
- Omitted facts that were obviously known by a family member (e.g., not reporting employment income)
- Admission of program abuse by an adult family member

The CDA may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

Penalties for Program Abuse

In the case of program abuse caused by a family the CDA may, at its discretion, impose any of the following remedies.

- The CDA may require the family to repay any amounts owed to the program (see 15-II.B., Family Reimbursement to CDA).
- The CDA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 13 (for residents).
- The CDA may deny admission or terminate the family's lease following the policies set forth in Chapter 3 and Chapter 13 respectively.
- The CDA may refer the family for state or federal criminal prosecution as described in section 15-II.D.

15-II.C. CDA-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of CDA staff with respect to normal program administration are discussed throughout the ACOP. This section specifically addresses actions of a CDA staff member that are considered errors or program abuse related to the public housing program. Additional standards of conduct may be provided in the CDA personnel policy.

CDA-caused incorrect rental determinations include (1) failing to correctly apply public housing rules regarding family composition, income, assets, and expenses, and (2) errors in calculation.

Repayment to the CDA

The family is not required to repay an underpayment of rent if the error or program abuse is caused by CDA staff.

CDA Reimbursement to Family

CDA Policy

The CDA will reimburse a family for any overpayment of rent, regardless of whether the overpayment was the result of clerical error or staff program abuse.

Prohibited Activities

CDA Policy

Any of the following will be considered evidence of program abuse by CDA staff:

- Failing to comply with any public housing program requirements for personal gain
- Failing to comply with any public housing program requirements as a result of a conflict of interest relationship with any applicant or resident
- Seeking or accepting anything of material value from applicants, residents, vendors,contractors, or other persons who provide services or materials to the CDA
- Disclosing confidential or proprietary information to outside parties
- Gaining profit as a result of insider knowledge of CDA activities, policies, or practices
- Misappropriating or misusing public housing funds
- Destroying, concealing, removing, or inappropriately using any records related to thepublic housing program
- Committing any other corrupt or criminal act in connection with any federal housingprogram

15-II.D. CRIMINAL PROSECUTION

CDA Policy

When the CDA determines that program abuse by a family or CDA staff member has occurred and the amount of underpaid rent meets or exceeds the threshold for prosecution under local or state law, the CDA will refer the matter to the appropriate entity for prosecution. When the amount of underpaid rent meets or exceeds the federal threshold, the case may also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the public housing program will be referred to the appropriate local, state, or federal entity.

15-II.E. FRAUD AND PROGRAM ABUSE RECOVERIES

CDAs who enter into a repayment agreement with a family to collect rent owed, initiate litigation against the family to recover rent owed, or begin eviction proceedings against a family may retain 100 percent of program funds that the CDA recovers [Notice PIH 2007-27 (HA)].

If the CDA does none of the above, all amounts that constitute an underpayment of rent must be returned to HUD.

The family must be afforded the opportunity for a hearing through the CDA's grievance process.

Chapter 16

PROGRAM ADMINISTRATION

INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this ACOP. The policies are discussed in seven parts as described below:

Part I: Setting Utility Allowances. This part describes how utility allowances are established and revised. Also discussed are the requirements to establish surcharges for excess consumption of CDA-furnished utilities.

Part II: Establishing Flat Rents. This part describes the requirements and policies related to establishing and updating flat rent amounts.

Part III: Repayment of Family Debts. This part contains policies for recovery of monies that have been underpaid by families and describes the circumstances under which the CDA will offer repayment agreements to families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part IV: Public Housing Assessment System (CDAS). This part describes the CDA's indicators, how CDA is scored under CDA's, and how those scores affect the CDA.

Part V: Record Keeping. All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies the CDA will follow.

Part VI: Reporting and Record Keeping for Children with Elevated Blood Lead Level. This part describes the CDA's reporting responsibilities related to children with elevated blood lead levels that are living in public housing.

Part VII: Violence against Women Act (VAWA): Notification, Documentation, and Confidentiality. This part contains key terms used in VAWA and describes requirements related to notifying families about their rights and responsibilities under VAWA; requesting documentation from victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking; and maintaining the confidentiality of information obtained from victims.

PART I: SETTING UTILITY ALLOWANCES

24 CFR 965 Subpart E

16-I.A. OVERVIEW

CDAs must establish allowances for CDA-furnished utilities for all check metered utilities and for resident-purchased utilities for all utilities purchased directly by residents from a utility supplier [24 CFR 965.502(a)].

CDAs must also establish surcharges for excess consumption of CDA-furnished utilities [24 CFR 965.506].

The CDA must maintain a record that documents the basis on which utility allowances and scheduled surcharges are established and revised, and the record must be made available for inspection by residents [24 CFR 965.502(b)].

16-I.B. UTILITY ALLOWANCES

The CDA must establish separate allowances for each utility and for each category of dwelling units the CDA determines to be reasonably comparable as to factors affecting utility usage [24 CFR 965.503].

The objective of a CDA in establishing utility allowances for each dwelling unit category and unit size is to approximate a reasonable consumption of utilities by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment [24 CFR 965.505].

Utilities include gas, electricity, fuel for heating, water, sewerage, and solid waste disposal for a dwelling unit. In addition, if the CDA does not furnish a range and refrigerator, the family must be granted a utility allowance for the range and refrigerator they provide [24 CFR 965.505].

Costs for telephone, cable/satellite TV, and internet services are not considered utilities [PH Occ GB, p. 138].

Utility allowance amounts will vary by the rates in effect, size and type of unit, climatic location and sitting of the unit, type of construction, energy efficiency of the dwelling unit, and other factors related to the physical condition of the unit. Utility allowance amounts will also vary by residential demographic characteristics affecting home energy usage [PH Occ GB, p. 138].

Chapter 14 of the *PH Occupancy Guidebook* provides detailed guidance to the CDA about establishing utility allowances.

Air-Conditioning

"If the CDA installs air conditioning, it shall provide, to the maximum extent economically feasible, systems that give residents the option of choosing to use air conditioning in their units. The design of systems that offer each resident the option to choose air conditioning shall include retail meters or check meters, and residents shall pay for the energy used in its operation. For systems that offer residents the option to choose air conditioning but cannot be check metered, residents are to be surcharged in accordance with 965.506. If an air conditioning system does not provide for resident option, residents are not to be charged, and these systems should be avoided whenever possible." [24 CFR 965.505(e)]

CDA Policy

The CDA has installed air-conditioning in 4-plexes and rowhome developments only.

Utility Allowance Revisions [24 CFR 965.507]

The CDA must review at least annually the basis on which utility allowances have been established and must revise the allowances if necessary in order to adhere to the standards for establishing utility allowances that are contained in 24 CFR 965.505. The review must include all changes in circumstances (including completion of modernization and/or other energy conservation measures implemented by the CDA) indicating probability of a significant change in reasonable requirements and changes in utility rates [24 CFR 965.507(a)].

The CDA must revise its allowances for resident-purchased utilities if there is a rate change, and is required to do so if such change, by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rate on which the allowance was based.

Adjustments to resident payments as a result of such changes must be retroactive to the first day of the month following the month in which the last rate change taken into account became effective. Such rate changes are not subject to the 60-day notice [24 CFR 965.507(b)].

CDA Policy

Between annual reviews of utility allowances, the CDA will only revise its utility allowances due to a rate change, when required to by the regulation.

16-I.C. SURCHARGES FOR CDA-FURNISHED UTILITIES [24 CFR 965.506]

For dwelling units subject to allowances for CDA-furnished utilities where check meters have been installed, the CDA must establish surcharges for utility consumption in excess of the allowances. Surcharges may be computed on a straight per unit of purchase basis or for stated blocks of excess consumption, and must be based on the CDA's average utility rate. The basis for calculating the surcharges must be described in the CDA's schedule of allowances. Changes in the amount of surcharges based directly on changes in the CDA's average utility rate are not subject to the advance notice requirements discussed under 16-I.D.

For dwelling units served by CDA-furnished utilities where check meters have not been installed, the CDA must establish schedules of surcharges indicating additional dollar amounts residents will be required to pay by reason of estimated utility consumption attributable to

resident-owned major appliances or to optional functions of CDA-furnished equipment. The surcharge schedule must state the resident-owned equipment (or functions of CDA-furnished equipment) for which surcharges will be made and the amounts of such charges. Surcharges must be based on the cost to the CDA of the utility consumption estimated to be attributable to reasonable usage of such equipment.

CDA Policy

The CDA does have CDA-furnished utilities which include water and sewer at all scattered site properties. At Colleen Loney Manor, CDA furnished utilities include water, sewer and gas furnished boiler heat.

16-I.D. NOTICE REQUIREMENTS [965.502]

The CDA must give notice to all residents of proposed allowances and scheduled surcharges, and revisions thereof. The notice must be given in the manner provided in the lease and must:

- Be provided at least 60 days before the proposed effective date of the allowances, scheduled surcharges, or revisions.
- Describe the basis for determination of the allowances, scheduled surcharges, or revisions, including a statement of the specific items of equipment and function whose utility consumption requirements were included in determining the amounts of the allowances and schedule of surcharges.
- Notify residents of the place where the CDA's documentation on which allowances and surcharges are based is available for inspection.
- Provide all residents an opportunity to submit written comments during a period expiring not less than 30 days before the proposed effective date of the allowances, scheduled surcharges, or revisions.

16-I.E. REASONABLE ACCOMMODATION AND INDIVIDUAL RELIEF [24 CFR 965.508]

On request from a family, CDAs must approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family with a disability [24 CFR 8 and 100, PH Occ GB, p. 172].

Likewise, residents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability [24 CFR 8 and 100, PH Occ GB, p. 172].

See Chapter 2 for policies regarding the request and approval of reasonable accommodations.

Further, the CDA may grant requests for relief from charges in excess of the utility allowance on reasonable grounds, such as special needs of the elderly, ill, or residents with disabilities, or special factors not within control of the resident, as the CDA deems appropriate. The family must request the higher allowance and provide the CDA with information about the additional allowance required.

CDA's should develop criteria for granting individual relief and to notify residents about the availability of individual relief, and also to notify participants about the availability of individual relief programs (sometimes referred to as "Medical Baseline discounts") offered by the local utility company [Utility Allowance GB, p. 19, 24 CFR 965.508].

PART II: ESTABLISHING FLAT RENTS

16-II.A. OVERVIEW

Flat rents are designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient.

Flat rents are also used to prorate assistance for a mixed family. A mixed family is one whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigrations status [24 CFR 5.504].

This part discusses how the CDA establishes and updates flat rents. Policies related to the use of flat rents, family choice of rent, flat rent hardships, and proration of rent for a mixed family are discussed in Chapter 6.

16-II.B. FLAT RENTS [24 CFR 960.253(b) and Notice PIH 2022-33]

Establishing Flat Rents

The 2015 Appropriations Act requires that flat rents must be set at no less than 80 percent of the applicable fair market rent (FMR). Alternatively, the CDA may set flat rents at no less than 80 percent of the applicable small area FMR(SAFMR) for metropolitan areas, or 80 percent of the applicable unadjusted rents for nonmetropolitan areas.

For areas where HUD has not determined a SAFMR or an unadjusted rent, CDA's must set flat rents at no less than 80 percent of the FMR or apply for an exception flat rent.

The 2015 Appropriations Act permits CDA's to apply for an exception flat rent that is lower than either 80 percent of the FMR or SAFMR/unadjusted rent if the CDA can demonstrate, through the submission of a market analysis, that these FMRs do not reflect the market value of a particular property or unit and HUD agrees with the CDA's analysis. The market analysis must be submitted using form HUD-5880, "Flat Rent Market Analysis Summary."

CDA's must receive written HUD approval before implementing exception flat rents. CDAs with a previously approved flat rent exception request may submit a written request to extend the approved flat rents for up to two additional years, provided local market conditions remain unchanged. Detailed information on how to request exception flat rents can be found in Notice PIH 2022-33.

CDA's are now required to apply a utility allowance to flat rents as necessary. Flat rents set at 80 percent of the FMR must be reduced by the amount of the unit's utility allowance, if any.

Review of Flat Rents

No later than 90 days after the effective date of the new annual FMRs/SAFMRs/unadjusted rent, CDAs must implement new flat rents as necessary based changes to the FMR/SAFMR/unadjusted rent or request an exception.

If the FMR falls from year to year, the CDA may, but is not required to, lower the flat rent to 80 percent of the current FMR/SAFMR/unadjusted rent.

CDA Policy

If the FMR/SAFMR/unadjusted rent is lower than the previous year, the CDA will not reduce flat rents to 80 percent of the current FMR/SAFMR. Flat rents will always fall within 80-110% of FMR/SAFMR/unadjusted rent.

Applying Flat Rents

CDA Policy

The CDA will apply updated flat rents at each family's next annual reexamination or flat rent update after implementation of the new flat rents.

Posting of Flat Rents

CDA Policy

The CDA will publish the schedule of flat rents in the initial and recertifications paperwork of all public housing residents.

Documentation of Flat Rents [24 CFR 960.253(b)(5)]

The CDA must maintain records that document the method used to determine flat rents, and that show how flat rents were determined by the CDA in accordance with this method.

PART III: FAMILY DEBTS TO THE CDA

16-III.A. OVERVIEW

Families are required to reimburse the CDA if they were charged less rent than required because the family either underreported or failed to report income. CDAs are required to determine retroactive rent amounts as far back as the CDA has documentation of family unreported income [Notice PIH 2018-18].

This part describes the CDA's policies for recovery of monies owed to the CDA by families.

CDA Policy

When an action or inaction of a resident family results in the underpayment of rent or other amounts, the CDA holds the family liable to return any underpayments to the CDA.

The CDA will enter into repayment agreements in accordance with the policies contained in this part as a means to recover underpayments.

16-III.B. REPAYMENT POLICY

Family Debts to the CDA

CDA Policy

Any amount owed to the CDA by a public housing family must be repaid. If the family is unable to repay the debt within 30 days, the CDA will offer to enter into a repayment agreement in accordance with the policies below.

Refusal to Enter into An Agreement

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the CDA will terminate the family's tenancy.

CDA Policy

When a family refuses to repay monies owed to the CDA, in addition to termination of program assistance, the CDA will utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies
- Small claims court
- Civil lawsuit
- State income tax set-off program

Repayment Agreement [24 CFR 792.103]

The term *repayment agreement* refers to a formal written document signed by a tenant or owner and provided to the CDA in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

General Repayment Agreement Guidelines

Down Payment Requirement

CDA Policy

Before executing a repayment agreement with a family, the CDA will generally require a down payment of 10 percent of the total amount owed. If the family can provide evidence satisfactory to the CDA that a down payment of 10 percent would impose an undue hardship, the CDA may, in its sole discretion, require a lesser percentage or waive the requirement.

Payment Thresholds

Notice PIH 2018-18 recommends that the total amount that a family must pay each month—the family's monthly share of rent plus the monthly debt repayment amount—should not exceed 40 percent of the family's monthly adjusted income, which is considered "affordable." Moreover, Notice PIH 2018-18 acknowledges that CDAs have the discretion to establish "thresholds and policies" for repayment agreements with families [24 CFR 982.552(c)(1)(vii)].

CDA Policy

The CDA has established the following thresholds for repayment of debts:
Amounts between $3,000 and the Federal or State threshold for criminal prosecution must be repaid within 36 months.

- Amounts between $2,000 and $2,999 must be repaid within 30 months.
- Amounts between $1,000 and $1,999 must be repaid within 24 months.
- Amounts under $1,000 must be repaid within 12 months.

If a family can provide evidence satisfactory to the CDA that the threshold applicable to the family's debt would impose an undue hardship, the CDA may, in its sole discretion, determine that a lower monthly payment amount is reasonable. In making its determination, the CDA will consider all relevant information, including the following:

- The amount owed by the family to the CDA
- The reason for the debt, including whether the debt was the result of family action/inaction or circumstances beyond the family's control
- The family's current and potential income and expenses
- The family's current tenant rent, as calculated under 24 CFR 960.253(c)
- The family's history of meeting its financial responsibilities

Execution of the Agreement

All repayment agreements must be in writing, dated, and signed by both the family and the CDA [Notice PIH 2018-18].

CDA Policy

Any repayment agreement between the CDA and a family must be signed and dated by the CDA and by the head of household, spouse/cohead or any other adult in the household that is 18 years of age or older (if applicable).

Due Dates

CDA Policy

All payments are due by the close of business on the 5th day of the month. If the 5th does not fall on a business day, the due date is the close of business on the first business day after the 5th.

Late or Missed Payments

CDA Policy

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by the CDA, the CDA will send the family a delinquency notice giving the family 14 business days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and the CDA will terminate tenancy in accordance with the policies in Chapter 13.

No Offer of Repayment Agreement

CDA Policy

The CDA generally will not enter into a repayment agreement with a family under any of the following conditions:

- The family is already under an existing repayment agreement with the CDA.
- The CDA determines that the family's debt is a result of program abuse or fraud (as defined in Chapter 15 of the ACOP).
- The amount owed by the family exceeds the federal or state threshold for criminal prosecution.

Repayment Agreement Terms

All repayment agreements must be in writing, dated, signed by both the family and the CDA, include the total retroactive rent amount owed, amount of lump sum payment made at time of execution, if applicable, and the monthly repayment amount. Notice PIH 2018-18 requires certain provisions to be included in any repayment agreement involving amounts owed by a family because it underreported or failed to report income:

- A reference to the items in the public housing lease that state the family's obligation to provide true and complete information at every reexamination and the grounds on which the CDA may terminate assistance because of a family's action or failure to act
- A statement clarifying that each month the family not only must pay to the CDA the monthly payment amount specified in the agreement but must also pay to the CDA the monthly tenant rent
- A statement that the terms of the repayment agreement may be renegotiated if the family's income decreases or increases
- A statement that late or missed payments constitute default of the repayment agreement and may result in termination of tenancy

PART IV: PUBLIC HOUSING ASSESSMENT SYSTEM (CDAS)

16-IV.A. OVERVIEW

The purpose of the Public Housing Assessment System (CDAS) is to improve the delivery of services in public housing and enhance trust in the public housing system among CDAs, public housing residents, HUD and the general public by providing a management tool for effectively and fairly measuring the performance of a public housing agency in essential housing operations.

16-IV.B. CDAS INDICATORS [24 CFR 902 Subparts A, B, C, D, and E]

The table below lists each of the CDAS indicators, the points possible under each indicator, and a brief description of each indicator. A CDA's performance is based on a combination of all four indicators.

Indicator 1: Physical condition of the CDA's projects
Maximum Score: 40

- The objective of this indicator is to determine the level to which a CDA is maintaining its public housing in accordance with the standard of safe, habitable dwelling units.
- To determine the physical condition of a CDA's projects, inspections are performed using the National Standards for the Inspection of Real Estate (NSPIRE). The inspections are performed by an independent inspector arranged by HUD and include a statistically valid sample of the units in each project in the CDA's public housing portfolio.

Indicator 2: Financial condition of the CDA's projects
Maximum Score: 25

- The objective of this indicator is to measure the financial condition of the CDA's public housing projects for the purpose of evaluating whether the CDA has sufficient financial resources and is capable of managing those financial resources effectively to support the provision of housing that is decent, safe, sanitary, and in good repair.
- A CDA's financial condition is determined by measuring each public housing project's performance in each of the following subindicators: quick ratio, months expendable net assets ratio, and debt service coverage ratio.

Indicator 3: Management operations of the CDA's projects
Maximum Score: 25

- The objective of this indicator is to measure certain key management operations and responsibilities of a CDA's projects for the purpose of assessing the CDA's management operations capabilities.
- Each project's management operations are assessed based on the following sub-indicators: occupancy, tenant accounts receivable, and accounts payable.
- An on-site management review may be conducted as a diagnostic and feedback tool for problem performance areas, and for compliance. Management reviews are not scored.

Indicator 4: Capital Fund
Maximum Score: 10

- The objective of this indicator is to measure how long it takes the CDA to obligate capital funds and to occupy units.
- The CDA's score for this indicator is measured at the CDA level and is based on the following subindicators: timeliness of fund obligation and occupancy rate.

16-IV.C. CDAS SCORING [24 CFR 902 Subpart F]

HUD's Real Estate Assessment Center (REAC) issues overall CDAS scores, which are based on the scores of the four CDAS indicators, and the subindicators under each indicator. The CDA's indicator scores are based on a weighted average of the CDA's public housing projects' scores. CDAS scores translate into a designation for each CDA as high performing, standard, substandard, or troubled.

A high performer is a CDA that achieves an overall CDAS score of 90 or greater, and achieves a score of at least 60 percent of the points available under the physical, financial, and management indicators and at least 50 percent of the points available under the capital fund indicator.

A standard performer is a CDA that has an overall CDAS score between 60 and 89, and achieves a score of at least 60 percent of the points available under the physical, financial, and management indicators and at least 50 percent of the points available under the capital fund indicator.

A substandard performer is a CDA that has an overall CDAS score of at least 60 percent and achieves a score of less than 60 percent under one or more of the physical, financial, or management indicators.

A troubled performer is a CDA that achieves an overall CDAS score of less than 60, or achieves less than 50 percent of the total points available under the capital fund indicator.

These designations can affect a CDA in several ways:

- High-performing CDAs are eligible for incentives including relief from specific HUD requirements and bonus points in funding competitions [24 CFR 902.71].
- CDAs that are standard performers may be required to submit and operate under a corrective action plan to eliminate deficiencies in the CDA's performance [24 CFR 902.73(a)(1)].
- CDAs that are substandard performers will be required to submit and operate under a corrective action plan to eliminate deficiencies in the CDA's performance [24 CFR 902.73(a)(2)].
- CDAs with an overall rating of "troubled" are subject to additional HUD oversight, and are required to enter into a memorandum of agreement (MOA) with HUD to improve CDA performance [24 CFR 902.75].
- CDAs that fail to execute or meet MOA requirements may be referred to the Assistant Secretary to determine remedial actions, including, but not limited to, remedies available for substantial default [24 CFR 902.75(g) and 24 CFR Part 907].

CDAs must post a notice of its final CDAS score and status in appropriate conspicuous and accessible locations in its offices within two weeks of receipt of its final score and designation [24 CFR 902.64(b)(2)].

PART V: RECORD KEEPING

16-V.A. OVERVIEW

The CDA must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, the CDA must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights, and that comply with VAWA confidentiality requirements.

16-V.B. RECORD RETENTION

The CDA must keep the last three years of the Form HUD-50058 and supporting documentation during the term of each assisted lease, and for a period of at least three years from the end of participation (EOP) date [24 CFR 908.101].

The CDA must maintain Enterprise Income Verification (EIV) system Income Reports in the tenant file for the duration of the tenancy but for a period not to exceed three years from the EOP date [Notice PIH 2018-18].

Notice PIH 2014-20 requires the CDA to keep records of all complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule.

The CDA must keep confidential records of all emergency transfer requested under the CDA's Emergency Transfer Plan, and the outcomes of such requests, and retain the records for a period of three years, or for a period of time as specific in program regulations [24 CFR 5.2002(e)(12)].

CDA Policy

The CDA will keep the last three years of the Form HUD-50058 and supporting documentation, and for at least three years after end of participation all documents related to a family's eligibility, tenancy, and termination.

The CDA will keep Enterprise Income Verification (EIV) system Income Reports in the tenant file for the duration of the tenancy and for three years from the end of participation date.

In addition, the CDA will keep the following records for at least three years:

- An application from each ineligible family and notice that the applicant is not eligible
- Lead-based paint records as required by 24 CFR 35, Subpart B
- Documentation supporting the establishment of flat rents
- Documentation supporting the establishment of utility allowances and surcharges
- Documentation related to CDAS
- Accounts and other records supporting CDA budget and financial statements for the program

- Complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act, the equal access final rule, or VAWA
- Confidential records of all emergency transfers related to VAWA requested under the CDA's Emergency Transfer Plan and the outcomes of such requests
- Other records as determined by the CDA or as required by HUD

If a hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 14-II.A.

16-V.C. RECORDS MANAGEMENT

CDAs must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

CDA Policy

All applicant and participant information will be kept in a secure location and access will be limited to authorized CDA staff.

CDA staff will not discuss personal family information unless there is a business reason to do so. Improper disclosure of family information by staff will result in disciplinary action.

Privacy Act Requirements [24 CFR 5.212 and Form-9886]

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the CDA may release the information collected.

Upfront Income Verification (UIV) Records

CDAs that access UIV data through HUD's Enterprise Income Verification (EIV) system are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD-issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification (UIV) Data*.

CDA Policy

Prior to utilizing HUD's EIV system, the CDA will adopt and implement EIV security procedures required by HUD.

Criminal Records

The CDA may only disclose the criminal conviction records which the CDA receives from a law enforcement agency to officers or employees of the CDA, or to authorized representatives of the CDA who have a job-related need to have access to the information [24 CFR 5.903(e)].

The CDA must establish and implement a system of records management that ensures that any criminal record received by the CDA from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the CDA action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

The CDA must establish and implement a system of records management that ensures that any sex offender registration information received by the CDA from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the CDA action without institution of a challenge or final disposition of any such litigation. However, a record of the screening, including the type of screening and the date performed must be retained [Notice PIH 2012-28]. This requirement does not apply to information that is public information, or is obtained by a CDA other than under 24 CFR 5.905.

Medical/Disability Records

CDAs are not permitted to inquire about the nature or extent of a person's disability. The CDA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the CDA receives a verification document that provides such information, the CDA should not place this information in the tenant file. The CDA should destroy the document.

Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking Records

For requirements and CDA policies related to management of documentation obtained from victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking, see section 16-VII.E.

PART VI: REPORTING REQUIREMENTS FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL

16-VI.A. REPORTING REQUIREMENTS [24 CFR 35.1130(e); Notice PIH 2017-13]

The CDA has certain responsibilities relative to children with elevated blood lead levels that are living in public housing.

The CDA must report the name and address of a child identified as having an elevated blood lead level (EBLL) to the public health department within five business days of being so notified by any other medical health care professional. The CDA must also report each known case of a child with an EBLL to the HUD field office.

CDA Policy

The CDA will provide the public health department written notice of the name and address of any child identified as having an elevated blood lead level.

The CDA will provide written notice of each known case of a child with an EBLL to the HUD field office, and to HUD's Office of Lead Hazard Control (OLHCHH), within five business days of receiving the information.

PART VII: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, AND CONFIDENTIALITY

16-VII.A. OVERVIEW

The Violence against Women Act (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking who are applying for or receiving assistance under the public housing program. If your state or local laws provide greater protection for such victims, those apply in conjunction with VAWA.

- Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD's recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and CDA policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and CDA policies are located in Chapter 3, "Eligibility" (sections 3-I.C and 3-III.F); Chapter 5, "Occupancy Standards and Unit Offers" (section 5-II.D); Chapter 8, "Leasing and Inspections" (section 8-I.B); Chapter 12, "Transfer Policy" (sections 12-III.C, 12-III.F, and 12-IV.D); and Chapter 13, "Lease Terminations" (sections 13-III.F and 13-IV.D).

16-VII.B. DEFINITIONS [24 CFR 5.2003, FR Notice 8/6/13]

As used in VAWA:

- The term *affiliated individual* means, with respect to a person:
  - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that person stands in the position or place of a parent; or
  - Any individual, tenant or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.
- The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - The length of the relationship
  - The type of relationship
  - The frequency of interaction between the persons involved in the relationship

- The term *domestic violence* includes felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding, and in the case of victim services, includes the user or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is:
  - The current or former spouse or intimate partner of the victim, or person similarly situated to a spouse or intimate partner of the victim
  - A person who is cohabitating or has cohabitated with the victim as a spouse or intimate partner
  - A person with whom the victim shares a child in common
  - A person who commits acts against an youth or adult victim who is protected from those acts under the domestic or family violence laws of the jurisdiction
- The term *economic abuse* means behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, and manipulation to:
  - Restrict a person's access to money, assets, credit, or financial information
  - Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage
  - Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or to whom one has a fiduciary duty
- The term *sexual assault* means:
  - Any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks the capacity to consent
- The term *stalking* means:
  - To engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.

- The term *technological abuse* means an act or pattern of behavior that occurs within domestic violence, dating violence, sexual assault, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor another person, except as otherwise permitted by law, that occurs using any form of technology, including but not limited to:
  - Internet enabled devices
  - Online spaces and platforms
  - Computers
  - Mobile devices
  - Cameras and imaging programs
  - Apps
  - Location tracking devices
  - Communication technologies
  - Any other emergency technologies

16-VII.C. NOTIFICATION [24 CFR 5.2005(a)]

Notification to Public

The CDA adopts the following policy to help ensure that all actual and potential beneficiaries of its public housing program are aware of their rights under VAWA.

CDA Policy

The CDA will post the following information regarding VAWA in its offices and on its website. It will also make the information readily available to anyone who requests it.

- A notice of occupancy rights under VAWA to public housing program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (Form HUD-5380, see Exhibit 16-1)
- A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation (see Exhibit 16-2)
- A copy of the CDA's emergency transfer plan (Exhibit 16-3)
- A copy of HUD's Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5383 (Exhibit 16-4)
- The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibit 16-1)
- Contact information for local victim advocacy groups or service providers

Notification to Applicants and Tenants [24 CFR 5.2005(a)(1)]

CDAs are required to inform public housing applicants and tenants of their rights under VAWA, including their right to confidentiality and the limits thereof, when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits.

The CDA must distribute a notice of VAWA rights, along with the VAWA self-certification form (HUD-5382) at each of these three junctures.

CDA Policy

The VAWA information provided to applicants and participants will consist of the notices in Exhibit 16-1 and 16-2.

The CDA will provide all applicants with information about VAWA at the time they request an application for housing assistance. The CDA will also include such information in all notices of denial of assistance (see section 3-III.F).

The CDA will provide all tenants with information about VAWA at the time of admission (see section 8-I.B) and at annual reexamination. The CDA will also include such information in all lease termination notices (see section 13-IV.D).

The CDA is not limited to providing VAWA information at the times specified in the above policy. If the CDA decides to provide VAWA information to a tenant following an incident of domestic violence, Notice PIH 2017-08 cautions against sending the information by mail, since the abuser may be monitoring the mail. The notice recommends that in such cases the CDA make alternative delivery arrangements that will not put the victim at risk.

CDA Policy

Whenever the CDA has reason to suspect that providing information about VAWA to a public housing tenant might place a victim of domestic violence at risk, it will attempt to deliver the information by hand directly to the victim or by having the victim come to an office or other space that may be safer for the individual, making reasonable accommodations as necessary. For example, the CDA may decide not to send mail regarding VAWA protections to the victim's unit if the CDA believes the perpetrator may have access to the victim's mail, unless requested by the victim.

When discussing VAWA with the victim, the CDA will take reasonable precautions to ensure that no one can overhear the conversation such as having conversations in a private room.

The victim may, but is not required to, designate an attorney, advocate, or other secure contact for communications regarding VAWA protections.

16-VII.D. DOCUMENTATION [24 CFR 5.2007]

A CDA presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault, stalking, human trafficking, or criminal activity related to any of these forms of abuse may—but is not required to—request that the individual making the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. The CDA may extend this time period at its discretion. [24 CFR 5.2007(a)]

The individual may satisfy the CDA's request by providing any one of the following three forms of documentation [24 CFR 5.2007(b)]:

(1) A completed and signed HUD-approved certification form (HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), which must include the name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim. The form may be filled out and submitted on behalf of the victim.

(2) A federal, state, tribal, territorial, or local police report or court record, or an administrative record

(3) Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault, stalking, or human trafficking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; a mental health professional; or a medical professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

The CDA may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under "Conflicting Documentation," nor may it require certification in addition to third-party documentation [FR Notice 11/16/16].

CDA Policy

Any request for documentation of domestic violence, dating violence, sexual assault, stalking, or human trafficking will be in writing, will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

The CDA may, in its discretion, extend the deadline for 10 business days. In determining whether to extend the deadline, the CDA will consider factors that may contribute to the victim's inability to provide documentation in a timely manner, including cognitive limitations, disabilities, limited English proficiency, absence from the unit, administrative delays, the danger of further violence, and the victim's need to address health or safety issues. Any extension granted by the CDA will be in writing.

Once the victim provides documentation, the CDA will acknowledge receipt of the documentation within 10 business days.

Conflicting Documentation [24 CFR 5.2007(e)]

In cases where the CDA receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, the CDA may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3). The CDA may also request third-party documentation when submitted documentation contains information that conflicts with existing information already available to the CDA. The CDA must honor any court orders issued to protect the victim or to address the distribution of property. Individuals have 30 calendar days to return third-party verification to the CDA. If the CDA does not receive third-party documentation, and the CDA will deny or terminate assistance as a result, the CDA must hold separate hearings for the tenants [Notice PIH 2017-08].

CDA Policy

If presented with conflicting certification documents from members of the same household, the CDA will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(e) and by following any HUD guidance on how such determinations should be made. When requesting third-party documents, the CDA will provide contact information for local domestic violence and legal aid offices. In such cases, applicants or tenants will be given 30 calendar days from the date of the request to provide such documentation.

If the CDA does not receive third-party documentation within the required timeframe (and any extensions) the CDA will deny VAWA protections and will notify the applicant or tenant in writing of the denial. If, as a result, the applicant or tenant is denied or terminated from the program, the CDA will hold separate hearings for the applicants or tenants.

Discretion to Require No Formal Documentation [24 CFR 5.2007(d)]

The CDA has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence—i.e., without requiring formal documentation of abuse in accordance with 24 CFR 5.2007(b). HUD recommends documentation in a confidential manner when a verbal statement or other evidence is accepted.

CDA Policy

If the CDA accepts an individual's statement or other corroborating evidence (as determined by the victim) of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the CDA will document acceptance of the statement or evidence in the individual's file.

Failure to Provide Documentation [24 CFR 5.2007(c)]

In order to deny relief for protection under VAWA, a CDA must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within 14 business days from the date of receipt, or such longer time as the CDA may allow, the CDA may deny relief for protection under VAWA.

16-VII.E. CONFIDENTIALITY [24 CFR 5.2007(b)(4)]

All information provided to the CDA regarding domestic violence, dating violence, sexual assault, stalking, or human trafficking, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, must be retained in confidence. This means that the CDA (1) may not enter the information into any shared database, (2) may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work, and (3) may not provide the information to any other entity or individual, except to the extent that the disclosure is (a) requested or consented to by the individual in writing, (b) required for use in an eviction proceeding, or (c) otherwise required by applicable law.

CDA Policy

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

EXHIBIT 16-1:

DAKOTA COUNTY CDA'S NOTICE OF OCCUPANCY RIGHTS UNDER THE VIOLENCE AGAINST WOMEN ACT[1]

To all Tenants and Applicants

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women, but are available equally to all individuals regardless of sex, gender identity, or sexual orientation.[2] The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees that public housing is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA."

Protections for Applicants

If you otherwise qualify for assistance under public housing, you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Protections for Tenants

If you are receiving assistance under public housing, you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under public housing solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

Removing the Abuser or Perpetrator from the Household

The Dakota County CDA may divide (bifurcate) your lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or stalking.

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[1] Despite the name of this law, VAWA protection is available regardless of sex, gender identity, or sexual orientation.

[2] Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

If the Dakota County CDA chooses to remove the abuser or perpetrator, the Dakota County CDA may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, the Dakota County CDA must allow the tenant who is or has been a victim and other household members to remain in the unit for 30 days, in order to establish eligibility under the program or under another HUD housing program covered by VAWA, or, find alternative housing.

In removing the abuser or perpetrator from the household, the Dakota County CDA must follow Federal, State, and local eviction procedures. In order to divide a lease, the Dakota County CDA may, but is not required to, ask you for documentation or certification of the incidences of domestic violence, dating violence, sexual assault, or stalking.

Moving to Another Unit

Upon your request, the Dakota County CDA may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, the Dakota County CDA may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking. If the request is a request for emergency transfer, the Dakota County CDA may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

- **You are a victim of domestic violence, dating violence, sexual assault, or stalking.** If the Dakota County CDA does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, they may ask you for such documentation, as described in the documentation section below.
- **You expressly request the emergency transfer.** The Dakota County CDA may choose to require that you submit a form, or may accept another written or oral request.
- **You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

  OR
- **You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you expressly request the transfer.

The Dakota County CDA will keep confidential requests for emergency transfers by victims of domestic violence, dating violence, sexual assault, or stalking, and the location of any move by such victims and their families.

The Dakota County CDA's emergency transfer plan provides further information on emergency transfers, and the Dakota County CDA must make a copy of its emergency transfer plan available to you if you ask to see it.

Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking

The Dakota County CDA can, but is not required to, ask you to provide documentation to "certify" that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such request from the Dakota County CDA must be in writing, and the Dakota County CDA must give you at least 14 business days (Saturdays, Sundays, and federal holidays do not count) from the day you receive the request to provide the documentation. The Dakota County CDA may, but does not have to, extend the deadline for the submission of documentation upon your request.

You can provide one of the following to the Dakota County CDA as documentation. It is your choice which of the following to submit if the Dakota County CDA asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

- A complete HUD-approved certification form given to you by the Dakota County CDA with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for your name, the date, time, and location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides for including the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and is safe to provide.
- A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.
- A statement, which you must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, "professional") from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that they believe that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.
- Any other statement or evidence that the Dakota County CDA has agreed to accept.

If you fail or refuse to provide one of these documents within 14 business days, the Dakota County CDA does not have to provide you with the protections contained in this notice.

If the Dakota County CDA receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms from

two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), the Dakota County CDA has the right to request that you provide third-party documentation within thirty 30 calendar days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, the Dakota County CDA does not have to provide you with the protections contained in this notice.

Confidentiality

The Dakota County CDA must keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA.

The Dakota County CDA must not allow any individual administering assistance or other services on behalf of the Dakota County CDA (for example, employees and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable federal, state, or local law.

The Dakota County CDA must not enter your information into any shared database or disclose your information to any other entity or individual. The Dakota County CDA, however, may disclose the information provided if:

- You give written permission to the Dakota County CDA to release the information on a time limited basis.
- The Dakota County CDA needs to use the information in an eviction or termination proceeding, such as to evict your abuser or perpetrator or terminate your abuser or perpetrator from assistance under this program.
- A law requires the Dakota County CDA, as your landlord, to release the information.

VAWA does not limit the Dakota County CDA's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted or Assistance May Be Terminated

You can be evicted and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against you. However, the Dakota County CDA cannot hold tenants who have been victims of domestic violence, dating violence, sexual assault, or stalking to a more demanding set of rules than it applies to tenants who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

The protections described in this notice might not apply, and you could be evicted and your assistance terminated, if the Dakota County CDA can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

1. Would occur within an immediate time frame, and
2. Could result in death or serious bodily harm to other tenants or those who work on the property.

If the Dakota County CDA can demonstrate the above, the Dakota County CDA should only terminate your assistance or evict you if there are no other actions that could be taken to reduce or eliminate the threat.

Other Laws

VAWA does not replace any Federal, State, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

Non-Compliance with The Requirements of This Notice

You may report the Dakota County CDA for violations of these rights and seek additional assistance, if needed, by contacting or filing a complaint with **Minneapolis HUD Field Office at Phone: 612-370-3000, Fax: 612-370-3218 or TTY: 612-370-3186**.

For Additional Information

You may view a copy of HUD's final VAWA rule at: https://www.gpo.gov/fdsys/pkg/FR-2016-11-16/pdf/2016-25888.pdf.

Additionally, the Dakota County CDA must make a copy of HUD's VAWA regulations available to you if you ask to see them.

For questions regarding VAWA, please contact **Angela Nielsen at 651-675-4520**

For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY). You may also contact **360 Communities at 952-985-5300 or at www.360Communities.org .**

For tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at https://www.victimsofcrime.org/our-programs/stalking-resource-center.

For help regarding sexual assault, you may contact **360 Communities at 952-985-5300 or at www.360Communities.org**

Victims of stalking seeking help may contact **360 Communities at 952-985-5300 or at www.360Communities.org**

Attachment: Certification form HUD-5382

EXHIBIT 16-2 / HUD 5382

CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING AND ALTERNATE DOCUMENTATION, FORM HUD-5382

CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, AND ALTERNATE DOCUMENTATION

U.S. Department of Housing and Urban Development

OMB Approval No. 2577-0286
Exp. 06/30/2017

Purpose of Form: The Violence Against Women Act ("VAWA") protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

Use of This Optional Form: If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

(1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, "professional") from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of "domestic violence," "dating violence," "sexual assault," or "stalking" in HUD's regulations at 24 CFR 5.2003.

(2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or

(3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

Submission of Documentation: The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation, if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

Confidentiality: All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

1. **Date the written request is received by victim:** _____

2. **Name of victim:** _____

3. **Your name (if different from victim's):** _____

4. **Name(s) of other family member(s) listed on the lease:** _____

_____

5. **Residence of victim:** _____

6. **Name of the accused perpetrator (if known and can be safely disclosed):** _____

_____

7. **Relationship of the accused perpetrator to the victim:** _____

8. **Date(s) and times(s) of incident(s) (if known):** _____

_____

10. **Location of incident(s):** _____

In your own words, briefly describe the incident(s):
_____
_____
_____

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature _____ Signed on (Date) _____

Public Reporting Burden: The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

EXHIBIT 16-3

Dakota County Community Development Agency (CDA)

Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking
Public Housing Program

Emergency Transfers

The Dakota County CDA is concerned about the safety of its tenants, and such concern extends to tenants who are victims of domestic violence, dating violence, sexual assault, or stalking. In accordance with the Violence Against Women Act (VAWA),[3] the Dakota County CDA allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit. The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation. [4] The ability of the Dakota County CDA to honor such request for tenants currently receiving assistance, however, may depend upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether the Dakota County CDA has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

This plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance to tenants on safety and security. This plan is based on a model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD), the federal agency that oversees that the Dakota County CDA Public Housing Program is in compliance with VAWA.

Eligibility for Emergency Transfers

A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD's regulations at 24 CFR part 5, subpart L, is eligible for an emergency transfer, if the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit. If the tenant is a victim of sexual assault, the tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar- day period preceding a request for an emergency transfer.

A tenant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan.

Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

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[3]Despite the name of this law, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

[4]Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

Emergency Transfer Request Documentation

To request an emergency transfer, the tenant shall notify the Dakota County CDA's management via email, or other acceptable forms, to request for an emergency transfer. The Dakota County CDA will provide reasonable accommodations to this policy for individuals with disabilities. The tenant's written request for an emergency transfer should include either:

1. A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under the Dakota County CDA's program; OR
2. A statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency transfer.

Confidentiality

The Dakota County CDA will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives the Dakota County CDA written permission to release the information on a time-limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person or persons that committed an act of domestic violence, dating violence, sexual assault, or stalking against the tenant. See the Notice of Occupancy Rights under the Violence against Women Act for All Tenants for more information about the Dakota County CDA's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

Emergency Transfer Timing and Availability

The Dakota County CDA cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. The Dakota County CDA will, however, act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. The Dakota County CDA may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

If the Dakota County CDA has no safe and available units for which a tenant who needs an emergency transfer is eligible, the Dakota County CDA will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, the Dakota County CDA will also assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

Emergency Transfers: Public Housing (PH) Program

If you are a public housing resident and request an emergency transfer as described in this plan, the Dakota County CDA will attempt to assist you in moving to a safe unit quickly. The Dakota County CDA will make exceptions as required to policies restricting moves.

Emergency transfers for which you are not required to apply for assistance include the following:

- Public housing unit in a different development
- Public housing unit in the same development, if you determine that the unit is safe

At your request, the Dakota County CDA will refer you to organizations that may be able to further assist you.

You may also request an emergency transfer to the following programs for which you are required to apply for assistance:

- CDA's Senior Housing Program (if a vacant unit is available and the household meets eligibility requirements).
- CDA's Workforce Housing Program (if a vacant unit is available and the household meets eligibility requirements).

Emergency transfers will not take priority over waiting list admissions for these types of assistance. At your request, the Dakota County CDA will refer you to organizations that may be able to further assist you.

Safety and Security of Tenants

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe.

Tenants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

Tenants who have been victims of sexual assault may call the Rape, Abuse, and Incest National Network's National Sexual Assault Hotline at 1-800-656-HOPE, or visit the online hotline at https://ohl.rainn.org/online/.

Tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at https://www.victimsofcrime.org/our-programs/stalking-resource-center.

EXHIBIT 16-4

DAKOTA COUNTY CDA'S EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, FORM HUD-5383

EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

U.S. Department of Housing and Urban Development

OMB Approval No. 2577-0286
Exp. 06/30/2017

Purpose of Form: If you are a victim of domestic violence, dating violence, sexual assault, or stalking, and you are seeking an emergency transfer, you may use this form to request an emergency transfer and certify that you meet the requirements of eligibility for an emergency transfer under the Violence Against Women Act (VAWA). Although the statutory name references women, VAWA rights and protections apply to all victims of domestic violence, dating violence, sexual assault or stalking. Using this form does not necessarily mean that you will receive an emergency transfer. See your housing provider's emergency transfer plan for more information about the availability of emergency transfers.

The requirements you must meet are:

(1) You are a victim of domestic violence, dating violence, sexual assault, or stalking. If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation. In response, you may submit Form HUD-5382, or any one of the other types of documentation listed on that Form.

(2) You expressly request the emergency transfer. Submission of this form confirms that you have expressly requested a transfer. Your housing provider may choose to require that you submit this form, or may accept another written or oral request. Please see your housing provider's emergency transfer plan for more details.

(3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit. This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

OR

You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer. If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you submit this form or otherwise expressly request the transfer.

Submission of Documentation: If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you should submit that documentation to your housing provider if it is safe for you to do so. Examples of third party documentation include, but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom you have sought assistance; a current restraining order; a recent court order or other court records; a law enforcement report or records;

communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts.

Confidentiality: All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking, and concerning your request for an emergency transfer shall be kept confidential. Such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections or an emergency transfer to you. Such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

TO BE COMPLETED BY OR ON BEHALF OF THE PERSON REQUESTING A TRANSFER

1. Name of victim requesting an emergency transfer: _____

2. Your name (if different from victim's) _____

3. Name(s) of other family member(s) listed on the lease: _____

4. Name(s) of other family member(s) who would transfer with the victim: _____

5. Address of location from which the victim seeks to transfer: _____

6. Address or phone number for contacting the victim: _____

7. Name of the accused perpetrator (if known and can be safely disclosed): _____

8. Relationship of the accused perpetrator to the victim: _____

9. Date(s), Time(s) and location(s) of incident(s): _____

10. Is the person requesting the transfer a victim of a sexual assault that occurred in the past 90 days on the premises of the property from which the victim is seeking a transfer? If yes, skip question 11. If no, fill out question 11. _____

11. Describe why the victim believes they are threatened with imminent harm from further violence if they remain in their current unit. _____

12. If voluntarily provided, list any third-party documentation you are providing along with this notice: _____

This is to certify that the information provided on this form is true and correct to the best of my knowledge, and that the individual named above in Item 1 meets the requirement laid out on this form for an emergency transfer. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature _____ Signed on (Date) _____

GLOSSARY

A. ACRONYMS USED IN PUBLIC HOUSING

ACC	Annual contributions contract
ACOP	Admissions and continued occupancy policy
ADA	Americans with Disabilities Act of 1990
AIDS	Acquired immune deficiency syndrome
AMI	Area median income
AMP	Asset management project
BR	Bedroom
CDBG	Community Development Block Grant (Program)
CFP	Capital fund program
CFR	Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as "the regulations")
CoC	Continuum of Care
CPD	Community Planning and Development (HUD Office of)
COCC	Central office cost center
CPI	Consumer price index (published monthly by the Department of Labor as an inflation indicator)
EIV	Enterprise Income Verification
EHV	Emergency Housing Voucher
FDIC	Federal Deposit Insurance Corporation
FHA	Federal Housing Administration (HUD Office of Housing)
FHEO	Fair Housing and Equal Opportunity (HUD Office of)
FICA	Federal Insurance Contributions Act (established Social Security taxes)
FMR	Fair market rent
FR	Federal Register
FSS	Family Self-Sufficiency (Program)
FY	Fiscal year
FYE	Fiscal year end
GAO	Government Accountability Office

HA	Housing authority or housing agency
HCV	Housing choice voucher
HEA	Higher Education Act
~~**HIP**~~	~~Housing Information Portal~~
HOPE VI	Revitalization of Severely Distressed Public Housing Program
HOTMA	Housing Opportunity through Modernization Act of 2016
HUD	Department of Housing and Urban Development
HUDCLIPS	HUD Client Information and Policy System
IMS/PIC	Inventory Management System/PIH Information Center
IPA	Independent public accountant
IRA	Individual retirement account
IRS	Internal Revenue Service
IVT	Income Validation Tool
~~**JTPA**~~	~~Job Training Partnership Act~~
LBP	Lead-based paint
LEP	Limited English proficiency
LIHTC	Low-income housing tax credit
MTW	Moving to Work
NOFA	Notice of funding availability
NSPIRE	National Standards for the Physical Inspection of Real Estate
OGC	HUD's Office of General Counsel
OIG	HUD's Office of Inspector General
OMB	Office of Management and Budget
PASS	Plan to Achieve Self-Support
PHA	Public housing agency
PHAS	Public Housing Assessment System
PIH	(HUD Office of) Public and Indian Housing
QC	Quality control
QHWRA	Quality Housing and Work Responsibility Act of 1998 (also known as the Public Housing Reform Act)

RAD	Rental Assistance Demonstration Program
REAC	(HUD) Real Estate Assessment Center
RFP	Request for proposals
RIGI	Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level)
ROSS	Resident Opportunity and Supportive Services
SAFMR	**Small Area Fair Market Rent**
SAVE	**Systematic Alien Verification for Entitlements**
SSA	Social Security Administration
SSI	Supplemental security income
SWICA	State wage information collection agency
TANF	Temporary assistance for needy families
TR	Tenant rent
TTP	Total tenant payment
UA	Utility allowance
UFAS	Uniform Federal Accessibility Standards
UIV	Upfront income verification
URP	Utility reimbursement payment
VAWA	Violence Against Women Act
VCA	Voluntary Compliance Agreement

B. GLOSSARY OF PUBLIC HOUSING TERMS

Accessible. The facility or portion of the facility can be approached, entered, and used by persons with disabilities.

Adjusted income. Annual income (as determined under 24 CFR 5.609), of the members of the family residing or intending to reside in the dwelling unit less allowable HUD deductions and allowances.

Affiliated individual. With respect to an individual, a spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in loco parentis (in the position or place of a parent), or any individual, tenant, or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.

Alternative non-public housing rent. A monthly rent equal to the greater of:

- The applicable fair market rent, as defined in 24 CFR part 888, subpart A, for the unit; or
- The amount of the monthly subsidy provided for the unit, which will be determined by adding the per unit assistance provided to a public housing property as calculated through the applicable formulas for the Public Housing Capital Fund and Public Housing Operating Fund.

Annual contributions contract (ACC). The written contract between HUD and a PHA under which HUD agrees to provide funding for a program under the 1937 Act, and the PHA agrees to comply with HUD requirements for the program.

Applicant (applicant family). A family that has applied for admission to a program but is not yet a participant in the program.

As-paid states. States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

Assets. (See *net family assets.*)

Auxiliary aids. Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving federal financial assistance.

Bifurcate. With respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.

Ceiling rent. The highest rent amount the PHA will require a family to pay, for a particular unit size, when the family is paying an income-based rent.

Child. *A* member of the family other than the family head or spouse who is under 18 years of age.

Child care expenses. Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further their education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

Citizen. *A* citizen or national of the United States.

Cohead. An individual in the household who is equally responsible for the lease with the head of household. A family may have a cohead or spouse but not both. A cohead never qualifies as a dependent. The cohead must have legal capacity to enter into a lease.

Consent form. Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

Covered families. Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which federal, state, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

Dating violence. Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

Day laborer. An individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future.

Dependent. A member of the family (which excludes foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

Dependent child. In the context of the student eligibility restrictions, a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of *dependent* as specified above.

***Disability assistance expenses*.** Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member, and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

***Disabled family*.** A family whose head, cohead, spouse, or sole member is a person with disabilities; two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

Disabled person. See *person with disabilities.*

Disallowance. Exclusion from annual income.

***Displaced family*.** A family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to federal disaster relief laws.

Domestic violence. Felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding, and in the case of victim services, includes the user or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is:

- The current or former spouse or intimate partner of the victim, or person similarly situated to a spouse or intimate partner of the victim
- A person who is cohabitating or has cohabitated with the victim as a spouse or intimate partner
- A person with whom the victim shares a child in common
- A person who commits acts against a youth or adult victim who is protected from those acts under the domestic or family violence laws of the jurisdiction

***Domicile*.** The legal residence of the household head or spouse as determined in accordance with state and local law.

Drug-related criminal activity. The illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute, or use the drug.

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

Economic abuse. Behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitle, including using coercion, fraud, and manipulation to:

- Restrict a person's access to money, assets, credit, or financial information
- Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage
- Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or to whom one has a fiduciary duty

Economic self-sufficiency program. Any program designed to encourage, assist, train, or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see 24 CFR 5.603(c).

Effective date. The "effective date" of an examination or reexamination refers to: (i) in the case of an examination for admission, the date of initial occupancy and (ii) in the case of reexamination of an existing tenant, the date the redetermined rent becomes effective.

Elderly family. A family whose head, cohead, spouse, or sole member is a person who is at least 62 years of age; two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

Elderly person. An individual who is at least 62 years of age.

Eligible family (Family). A family that is income eligible and meets the other requirements of the 1937 Act and Part 5 of 24 CFR.

Employer identification number (EIN). The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

Evidence of citizenship or eligible status. The documents which must be submitted as evidence of citizenship or eligible immigration status. (See 24 CFR 5.508(b).)

Extremely low-income family. A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area as determined by HUD, whichever number is higher, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30 percent of median income if HUD finds such variations are necessary due to unusually high or low family incomes. (See 24 CFR 5.603.)

Facility. All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock, or other real or personal property or interest in the property.

Fair Housing Act. Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

Fair market rent (FMR). The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe, and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the *Federal Register* in accordance with 24 CFR Part 888.

Family. Includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, and can be further defined in PHA policy.

- A single person, who may be:
    - An elderly person, displaced person, disabled person, near-elderly person, or any other single person;
    - An otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)), and is homeless or is at risk of becoming homeless at age 16 or older; or
- A group of persons residing together, and such group includes, but is not limited to:
    - A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);
    - An elderly family;
    - A near-elderly family;
    - A disabled family;
    - A displaced family; and
    - The remaining member of a tenant family.

Family self-sufficiency program (FSS program). The program established by a PHA within its jurisdiction to promote self-sufficiency among participating families, including the coordination of supportive services to these families (24 CFR 984.103).

Federal agency. A department of the executive branch of the federal government.

Flat rent. Rent that is based on the market rent charged for comparable units in the private unassisted rental market, set at no less than 80 percent of the current fair market rent (FMR), 80 percent of the small area fair market rent (SAFMR), or 80 percent of the unadjusted rent, with utility allowances applied as necessary. The unadjusted rent is the FMR estimated directly from source data that HUD uses to calculate FMRs in nonmetropolitan areas.

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

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

Foster child care payment. A payment to eligible households by state, local, or private agencies appointed by the state to administer payments for the care of foster children.

Full-time student. A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended). (See 24 CFR 5.603)

Gender identity. Actual or perceived gender-related characteristics.

Handicap. Any condition or characteristic that renders a person an individual with handicaps. (See *person with disabilities*.)

Head of household. The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

Health and medical care expenses. Health and medical care expenses are any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed.

Household. A household includes additional people other than the family who, with the PHA's permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

Housing agency (HA). See *public housing agency.*

HUD. The U.S. Department of Housing and Urban Development.

Human trafficking. A crime involving the exploitation of a person for labor, services, or commercial sex. The Trafficking Victims Protection Act of 2000 and its subsequent reauthorizations recognize and define two primary forms of human trafficking:

- Sex trafficking is the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age. See 22 U.S.C. § 7102(11)(A).
- Forced labor is the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. See 22 U.S.C. § 7102(11)(B).

Imputed asset. An asset disposed of for less than fair market value during the two years preceding examination or reexamination.

Imputed asset income. When the value of net family assets exceeds $50,000 and the actual returns from a given asset cannot be calculated, imputed returns on the asset based on the current passbook savings rate, as determined by HUD.

Imputed welfare income. An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction but is included in the family's annual income and therefore reflected in the family's rental contribution.

Income-based rent. A tenant rent that is based on the family's income and the PHA's rent policies for determination of such rents.

Income information means information relating to an individual's income, including:

- All employment income information known to current or previous employers or other income sources
- All information about wages, as defined in the state's unemployment compensation law, including any social security number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, employer identification number of an employer reporting wages under a state unemployment compensation law
- Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received
- Unearned IRS income and self-employment wages and retirement income
- Wage, social security, and supplemental security income data obtained from the Social Security Administration.

Income Validation Tool (IVT) Accessible through HUD's EIV system, provides validation of tenant reported wages, unemployment compensation, and Social Security benefits by comparing the income reported in IMS-PIC via form HUD-50058 to information received from the Department of Health and Human Services' (HHS) National Directory of New Hires (NDNH), and the Social Security Administration (SSA) data sharing agreements.

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

Individual with handicaps. See *person with disabilities.*

Jurisdiction. The area in which the PHA has authority under state and local law to administer the program.

Lease. A written agreement between the PHA and a tenant family for the leasing a public housing unit. The lease establishes the legal relationship between the PHA and the tenant family.

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

- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.

Local preference. A preference used by the PHA to select among applicant families.

Low-income family. A family whose income does not exceed 80 percent of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80 percent for areas with unusually high or low incomes.

Minimum rent. An amount established by the PHA of zero to $50.

Minor. A member of the family household other than the family head or spouse, who is under 18 years of age.

Mixed family. *A* family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

Monthly adjusted income. One twelfth of adjusted income.

Monthly income. One twelfth of annual income.

National. *A* person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

Near-elderly family. A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

~~***Net family assets.*** (1) Net family assets is the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment. (2) In determining net family assets, PHAs or owners, as applicable, must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets. (3) Excluded from the calculation of net family assets are: (i) The value of necessary items of personal property; (ii) The combined value of all non-necessary items of personal property if the combined total value does not exceed $50,000 (which amount will be adjusted by HUD in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers); (iii) The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; (iv) The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located; (v) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability; (vi) The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986, the value of any qualified tuition program under section 529 of such Code, the value of any Achieving a Better Life Experience (ABLE) account authorized under Section 529A of such Code, and the value of any "baby bond" account created, authorized, or funded by Federal, State, or local government. (vii) Interests in Indian trust land; (viii) Equity in a manufactured home where the family receives assistance under 24 CFR part 982; (ix) Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982; (x) Family Self Sufficiency Accounts; and (xi) Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family. (4) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the trust fund is not a family asset and the value of the trust is not included in the calculation of net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household.~~

Net family assets. (1) Net family assets is the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment. (2) In determining net family assets, PHAs or owners, as applicable, must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments,

so negative equity alone would not justify excluding the property or other investments from family assets. (3) Excluded from the calculation of net family assets are: (i) The value of necessary items of personal property; (ii) The combined value of all non-necessary items of personal property if the combined total value does not exceed $50,000 (which amount will be adjusted by HUD in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers); (iii) The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; (iv) The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located; (v) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability; (vi) The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986, the value of any qualified tuition program under section 529 of such Code, the value of any Achieving a Better Life Experience (ABLE) account authorized under Section 529A of such Code, and the value of any "baby bond" account created, authorized, or funded by Federal, State, or local government. (vii) Interests in Indian trust land; (viii) Equity in a manufactured home where the family receives assistance under 24 CFR part 982; (ix) Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982; (x) Family Self-Sufficiency Accounts; and (xi) Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family. (4) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the trust fund is not a family asset and the value of the trust is not included in the calculation of net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household.

Noncitizen. *A* person who is neither a citizen nor national of the United States.

Non-public housing over-income family. A family whose income exceeds the over-income limit for 24 consecutive months and is paying the alternative non-public housing rent.

Over-income family. A family whose income exceeds the over-income limit.

Over-income limit. The over-income limit is determined by multiplying the applicable income limit for a very low-income family, as defined in 24 CFR 5.603(b), by a factor of 2.4.

PHA Plan. The annual plan and the 5-year plan as adopted by the PHA and approved by HUD.

Participant (participant family). A family that has been admitted to the PHA program and is currently assisted in the program.

Person with disabilities. *For the purposes of program eligibility*. A person who has a disability as defined under the Social Security Act or Developmental Disabilities Care Act, or a person who has a physical or mental impairment expected to be of long and indefinite duration and whose ability to live independently is substantially impeded by that impairment but could be improved by more suitable housing conditions. This includes persons with AIDS or conditions arising from AIDS but excludes persons whose disability is based solely on drug or alcohol dependence. *For the purposes of reasonable accommodation.* A person with a physical or mental impairment that substantially limits one or more major life activities, a person regarded as having such an impairment, or a person with a record of such an impairment.

Premises. The building or complex in which the dwelling unit is located, including common areas and grounds.

Previously unemployed. With regard to the earned income disallowance, a person who has earned, in the 12 months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

Public assistance. Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by federal, state, or local governments.

Public housing agency (PHA). Any state, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

~~***Real property.*** Has the same meaning as that provided under the law of the State in which the property is located.~~

Reasonable accommodation. A change, exception, or adjustment to a rule, policy, practice, or service to allow a person with disabilities to fully access the PHA's programs or services.

Recertification. Sometimes called *reexamination.* The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

Remaining member of the tenant family. The person left in assisted housing who may or may not normally qualify for assistance on their own circumstances (i.e., an elderly spouse dies, leaving widow age 47 who is not disabled).

Residency preference. A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area (See *residency preference area*).

Residency preference area. The specified area where families must reside to qualify for a residency preference.

Responsible entity. For the public housing program, the PHA administering the program under an ACC with HUD.

Secretary. The Secretary of Housing and Urban Development.

Seasonal worker. An individual who is hired into a short-term position and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry.

Section 8. Section 8 of the United States Housing Act of 1937; refers to the housing choice voucher program.

Security deposit. A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the PHA upon termination of the lease.

Sexual assault. Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent (42 U.S.C. 13925(a))

Sexual orientation. Homosexuality, heterosexuality or bisexuality.

Single person. A person living alone or intending to live alone.

Social security number (SSN). The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

Specified welfare benefit reduction. Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

Spouse. The marriage partner of the head of household.

Stalking. To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

State wage information collection agency (SWICA). The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

Technological abuse. An act or pattern of behavior that occurs within domestic violence, dating violence, sexual assault, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor another person, except as otherwise permitted by law, that occurs using any form of technology, including but not limited to:

- Internet enabled devices
- Online spaces and platforms
- Computers
- Mobile devices
- Cameras and imaging programs
- Apps
- Location tracking devices
- Communication technologies
- Any other emergency technologies

Tenant. The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

Tenant rent. The amount payable monthly by the family as rent to the PHA.

Total tenant payment (TTP). The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

Unearned income. Any annual income, as calculated under § 5.609, that is not earned income.

Upfront income verification (UIV). UIV is the verification of income, before or during a family reexamination, through an independent sources that systematically and uniformly maintains income information in computerized form for a large number of individuals.

Utilities. Water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection, and sewage services. Telephone service is not included.

Utility allowance. If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

Utility reimbursement. The amount, if any, by which the utility allowance for the unit, if applicable, exceeds the total tenant payment (TTP) for the family occupying the unit.

Veteran. A person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released therefrom under conditions other than dishonorable.

Violence Against Women Act (VAWA). Prohibits denying admission to, denying assistance under, or evicting from a public housing unit an otherwise qualified applicant or tenant on the basis that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

Violent criminal activity. Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

Waiting list. A list of families organized according to HUD regulations and PHA policy who are waiting for a unit to become available.

Welfare assistance. Income assistance from federal or state welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families. For the FSS program (24 CFR 984.103), *welfare assistance* includes only cash maintenance payments designed to meet a family's ongoing basic needs. Does not include nonrecurring short term benefits designed to address individual crisis situations, work subsidies, supportive services such as child care and transportation provided to families who are employed, refundable earned income tax credits, contributions to and distributions from Individual Development Accounts under TANF, services such as counseling, case management, peer support, child care information and referral, financial empowerment, transitional services, job retention, job advancement, and other employment-related services that to not provide basic income support, amounts solely directed to meeting housing expenses, amounts for health care, Supplemental Nutrition Assistance Program (SNAP) and emergency rental and utilities assistance, SSI, SSDI, or social security, and child-only or non-needy TANF grants made to or on behalf of a dependent child solely on the basis of the child's need and not the need of the child's current non-parental caretaker.

Board of Commissioners

Request for Board Action

Meeting Date: October 27, 2026 Agenda #: 5A

DEPARTMENT: Finance
FILE TYPE: Regular - Consent

TITLE
Approval Of Record Of Disbursements – September 2026

PURPOSE/ACTION REQUESTED
Approve Record of Disbursements for September 2026.

SUMMARY
In September 2026, the Dakota County Community Development Agency (CDA) had $6,449,053.54 in disbursements and $630,022.86 in payroll expenses. Attachment A provides the breakdown of disbursements. Additional detail is available from the Finance Department.

RECOMMENDATION
Staff recommend approval of the Record of Disbursements for September 2026.

EXPLANATION OF FISCAL/FTE IMPACTS
These disbursements are included in the Fiscal Year Ending June 30, 2027 budget.

☐ None ☒ Current budget ☐ Amendment Requested ☐ Other

RESOLUTION
BE IT RESOLVED by the Dakota County Community Development Agency Board of Commissioners, That the September 2026 Record of Disbursements is approved as written.

PREVIOUS BOARD ACTION
N/A

ATTACHMENTS
Attachment A: Record of Disbursements – September 2026

CONTACT
Department Head: Ken Bauer, Finance Director
Author: Chris Meyer, Assistant Director of Finance

Dakota County CDA
Record of Disbursements
For the month of September 2026

	Date	Amount	Total
Common Bond Housing			
	09/18/26	$ 5,558.66	
			$ 5,558.66
Disbursing			
	09/01/26	$ 107,391.00	
	09/03/26	$ 311,127.29	
	09/10/26	$ 787,740.85	
	09/17/26	$ 405,474.49	
	09/24/26	$ 1,171,708.31	
			$ 2,783,441.94
HOME			
	09/29/26	$ 395,627.44	
			$ 395,627.44
Housing Assistance			
	09/01/26	$ 3,137,885.50	
	09/17/26	$ 126,540.00	
			$ 3,264,425.50
Total Disbursements			**$ 6,449,053.54**
September 2026 Payroll			
	09/04/26	$ 311,761.08	
	09/18/26	$ 318,261.78	
Total Payroll			**$ 630,022.86**

Disbursement detail is available in the Finance Office

Dakota County CDA

Board of Commissioners

Request for Board Action

Meeting Date: October 27, 2026 Agenda #: 5B

DEPARTMENT: Property Management
FILE TYPE: Regular - Consent

TITLE
Award Service Contract To Jetter Clean For Routine Preventative Inspection And Cleaning Of Sewer Lines At CDA Properties

PURPOSE/ACTION REQUESTED
Award jet cleaning services contract to Jetter Clean.

SUMMARY
This three-year contract is for the routine preventative jet cleaning of sewer lines in CDA owned properties (28 senior buildings, Gateway Place, Colleen Loney Manor, Lincoln Place and Nicols Pointe).

The solicitation of bids was done in accordance with public bidding requirements. Public notice was published in the Dakota County Tribue (Attachment A) and posted on the CDA's website.

On October 1, 2026, a bid opening was held at the CDA office. Two bids were received and deemed responsive. Jetter Clean was the low, responsive bidder with a three-year total of $204,944. The bid tabulation is shown in Attachment B.

The CDA also received pricing for jet cleaning services at all properties where preventative cleaning is not needed in case of an emergency. Jetter Clean has been servicing CDA properties prior to the bidding of this contract. The bids were evaluated using the cost to inspect and jet clean the waste water lines in CDA properties annually.

RECOMMENDATION
Staff recommends awarding this contract to Jetter Clean. They are an established and experienced vendor in the market and have done prior work for the CDA.

EXPLANATION OF FISCAL/FTE IMPACTS
Operating funds are allocated from each building's budget to pay for these inspections and jet cleanings.

☐ None ☒ Current budget ☐ Amendment Requested ☐ Other

RESOLUTION
WHEREAS, the Dakota County Community Development Agency accepted bids for the inspections and jet cleaning of waste water lines located in CDA owned properties (28 senior buildings, Gateway Place, Colleen Loney Manor, Lincoln Place and Nicols Pointe; and

WHEREAS, Jetter Clean is the low, responsive bidder with a three-year contract total of $204,944; and

WHEREAS, funds are allocated from the operating budgets of each of the properties for this work.

NOW, THEREFORE BE IT RESOLVED by the Dakota County Community Development Agency Board of Commissioners, That the three-year inspections and jet cleaning services contract for CDA properties be awarded to Jetter Clean.

PREVIOUS BOARD ACTION
N/A

ATTACHMENTS
Attachment A: Affidavit of Publication
Attachment B: Bid Tabulation

CONTACT
Department Head: Anna Judge, Director of Property Management
Author: Anna Judge

AFFIDAVIT OF PUBLICATION

STATE OF MINNESOTA)
COUNTY OF DAKOTA) ss

I do solemly swear that the notice, as per the proof, was published in the edition of the

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 08/28/2026 and the last insertion being on 09/04/2026.

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 09/04/2026

_____
Notary Public

JACQUELINE HUERTA
Notary Public
Minnesota
My Commission Expires Jan. 31, 2029

Rate Information:
(1) Lowest classified rate paid by commercial users for comparable space:
$999.99 per column inch

Ad ID 1553173

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 **Line Cleaning Services Contract** for the CDA's housing programs. Bids will be received by the Office of the Director of Property Management at the Dakota County Community Development Agency, 1228 Town Centre Drive, Eagan, MN 55123 until **10:00 AM on October 1, 2026**.

At the time (above), the sealed bids will be publicly opened and read aloud. Bids received after this time and date will be rejected. No telephone or emailed bids will 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 specifications and bid forms have been issued and shall be used to be a qualified bid. Sealed bids shall be addressed to:

Dakota County CDA
1228 Town Centre Drive Eagan, MN 55123
Attn: **Anna Judge, Director of Property Management / Line Cleaning**

The project manual is now available.

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.

For bid documents, visit **dakotacda.org/doing-business-with-the-cda/contracting-opportunities** OR contact:

Anna Judge, Director of Property Management
Dakota County Community Development Agency
ajudge@dakotacda.org
651-675-4501

Published in the Dakota County Tribune
August 28, September 4, 2026
1553173

Public Bid Opening
10/1/26 @ 10:00 a.m.
Line Cleaning Service Contract

Contractor	Bid Bond	Add #1 Noted	Year 1	Year 2	Year 3	Total 3 Year
Drain Pro	X	X	$136,700	$136,700	$136,700	$410,100
Jetter Clean	X	X	$66,110	$66,110	$72,724	$204,944

Dakota County CDA

Board of Commissioners

Request for Board Action

Meeting Date: October 27, 2026 Agenda #: 5C

DEPARTMENT: Property Management
FILE TYPE: Regular - Consent

TITLE
Award Of Cleaning Contract To Brothers Manufacturing For Routine Cleaning Of Vacant Units

PURPOSE/ACTION REQUESTED
Award cleaning contract for routine cleaning of vacant units to Brothers Manufacturing.

SUMMARY
This is a three-year contract for the routine cleaning of vacant housing units at CDA properties. Current contracts for the cleaning services of CDA properties will expire on October 31, 2026.

The solicitation of bids was done in accordance with public bidding requirements and publicly advertised (Attachment A). On September 16, 2026 a bid opening was held at the CDA office. In addition to publicly advertising, CDA staff reached out to 93 vendors making them aware of the bid opportunity. Ten bids were received by the deadline and nine were deemed responsive. One bid was rejected as the vendor could not perform all tasks defined in the proposal.

Due to the varying hours submitted by the vendors to clean each unit type, a formula was used removing the highest and lowest outliers and then an average of hours was used and multiplied by each vendor's hourly rate to determine the low bidder. The bid tabulation is Attachment B.

There is not a set yearly amount for this contract because the value of the contract depends on the number of vacant unit turnovers that are cleaned. The overall price of this contract did not increase from the current contract due to expire on October 31, 2026.

RECOMMENDATION
Staff is recommending that the Board of Commissioners award the cleaning contract to Brothers Manufacturing as they have done work for the CDA in the past and have been a reliable and responsive contractor.

EXPLANATION OF FISCAL/FTE IMPACTS
Operating funds from each property or program are budgeted for this work.

☐ None ☒ Current budget ☐ Amendment Requested ☐ Other

RESOLUTION
WHEREAS, formal bids were received on September 16, 2026 for the necessary routine cleaning in vacant units to be completed at various CDA properties throughout Dakota County; and

WHEREAS, funds for the necessary cleaning work are to be allocated from each property's operating budget; and

WHEREAS, Brothers Manufacturing is the low, responsive bidder; and

WHEREAS, the contract bidding was done in conformance with state law.

NOW, THEREFORE BE IT RESOLVED by the Dakota County Community Development Agency Board of Commissioners, That the three-year routine cleaning contract be awarded to Brothers Manufacturing.

PREVIOUS BOARD ACTION
23-6752; 10/17/2023

ATTACHMENTS
Attachment A: Affidavit of Publication
Attachment B: Bid Tabulation

CONTACT
Department Head: Anna Judge, Director of Property Management
Author: Anna Judge

AFFIDAVIT OF PUBLICATION

STATE OF MINNESOTA)
COUNTY OF DAKOTA) ss

I do solemly swear that the notice, as per the proof, was published in the edition of the

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 08/28/2026 and the last insertion being on 09/04/2026.

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 09/04/2026

_____
Notary Public

JACQUELINE HUERTA
Notary Public
Minnesota
My Commission Expires Jan. 31, 2029

Rate Information:
(1) Lowest classified rate paid by commercial users for comparable space:
$999.99 per column inch

Ad ID 1553232

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 **Vacant Unit Cleaning Services Contract** for the CDA's housing programs. Bids will be received by the Office of the Director of Property Management at the Dakota County Community Development Agency, 1228 Town Centre Drive, Eagan, MN 55123 until **11:00 AM on September 16, 2026**.

At the time (above), the sealed bids will be publicly opened and read aloud. Bids received after this time and date will be rejected. No telephone or emailed bids will 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 specifications and bid forms have been issued and shall be used to be a qualified bid. Sealed bids shall be addressed to:

Dakota County CDA
1228 Town Centre Drive Eagan, MN 55123
Attn: **Anna Judge, Director of Property Management / Vacant Unit Cleaning**

The project manual is now available.

There are Davis-Bacon prevailing wage components with this contract.

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.

For bid documents, visit **dakotacda.org/doing-business-with-the-cda/contracting-opportunities** OR contact:

Anna Judge, Director of Property Management
Dakota County Community Development Agency
ajudge@dakotacda.org
651-675-4501

Published in the Dakota County Tribune
August 28, September 4, 2026
1553232

Cleaning Contract Bid Cost Analysis

Supporting Detail | All bids shown; outliers excluded from average-hour calculation

	ESTIMATED HOURS BY BIDDER								CALCULATED HOURS		PROJECTED COST BY BIDDER						
Service Level	Serva	Brothers	AB	AJH	AOC	Clean Pro	Details	Pristine	Average Hours	Rounded Hours	Serva	Bros	AB	AJH	AOC	Clean Pro	Details	Pristine
1	2	5	5	6	3	3	4	1.5	3.67	4	$240	$180	$196	$280	$300	$248	$212	$240
2	2.5	5	6	8	3.5	4	5	2	4.33	4.5	$270	$203	$221	$315	$338	$279	$239	$270
3	3.5	6	7	10	4	5	6	2.5	5.25	5.5	$330	$248	$270	$385	$413	$341	$292	$330
1	3	6	6.5	6	4	4	6	2.5	4.83	5	$300	$225	$245	$500	$375	$310	$265	$300
2	4	7	9	7	4.5	5	7	3	5.75	6	$360	$270	$294	$600	$450	$372	$318	$360
3	5	8	10	9	5	6	8	3.5	6.83	7	$420	$315	$343	$700	$525	$434	$371	$420
4	5.5	9	12	11	5.5	7	8	4	7.67	8	$480	$360	$392	$800	$600	$496	$424	$480
1	2.5	5	6	5	3	4	5	2	4.08	4	$240	$180	$208	$300	$300	$312	$212	$240
2	3.5	7	7	7	3.5	5	6	2.5	5.33	5	$300	$225	$260	$375	$375	$390	$265	$300
3	5	8	9	9	4.5	6	8	3.5	6.75	6.5	$390	$293	$338	$488	$488	$507	$345	$390
4	6	9	13	12	5	7	8	4	7.83	8	$480	$360	$416	$600	$600	$624	$424	$480
5	6.5	9	14	14	5	8	9	4.5	8.58	9	$540	$405	$468	$675	$675	$702	$477	$540
Eff	2.5	5	6	9	3	4	4	1.5	4.08	4	$240	$180	$208	$300	$300	$248	$212	$240

READING GUIDE	
	Outlier bid shown for transparency but excluded from the average
	Average and rounded hours used to calculate projected cost
	Lowest projected cost at the calculated hours

Dakota County CDA

Board of Commissioners

Request for Board Action

Meeting Date: October 27, 2026 Agenda #: 5D

DEPARTMENT: Housing Development
FILE TYPE: Regular - Consent

TITLE
Award Contract For Access Control Replacement At Lakeside Pointe (Eagan) and Parkview Plaza (Mendota Heights) Senior Housing Developments

PURPOSE/ACTION REQUESTED
- Authorize Deputy Executive Director to execute a contract for Access Control Replacement at Lakeside Pointe and Parkview Plaza senior housing developments.
- Authorize Change Order Authority.

SUMMARY
This contract is for the replacement of failing locks at Lakeside Pointe and Parkview Plaza senior housing developments. This is part of a long-term plan to roll out new technology and to replace the existing failing and obsolete locks.

On October 9, 2026 at 10 a.m. a public bid opening was conducted at the Dakota County CDA office for this project. Multiple contractors were solicited to bid on the project in addition to being publicly advertised (Attachment A) and posted on the CDA's website. Four contractors showed interest in the project with two showing up to the walk-through. Two bids were received with Assured Security as the low bid, Base Bid plus Alternate #1; the bid tabulation is Attachment B. Both parties met the Certified Integrator (CI) and locksmith requirements.

The alternate was included to add matching apartment door levers (Alternate #1). The alternate came in at $6,490.50 and it would be preferred that the CDA accept this alternate. The contract price, including the Base Bid and Alternate #1 is $173,977.75 and there are funds available for this project in the current Extraordinary Maintenance budget. It is expected that the project would be completed in early 2027.

RECOMMENDATION
It is recommended that the Deputy Executive Director be authorized to enter into a contract with Assured Security in the amount of $173,977.75 and be authorized to sign change orders in amount not to exceed $17,398 (this is 10% of the contract amount). The solicitation of bids was done in accordance with public bidding requirements and the contractor has successfully completed similar projects for the CDA in the past.

EXPLANATION OF FISCAL/FTE IMPACTS
The $191,375.53 (contract plus potential change order authority) will be funded from the FYE27 Extraordinary Maintenance Budget.

☐ None ☒ Current budget ☐ Amendment Requested ☐ Other

RESOLUTION

WHEREAS, formal bids were received on October 9, 2026 for the Access Control project at Lakeside Pointe (Eagan) and Parkview Plaza (Mendota Heights) senior housing developments in Dakota County; and

WHEREAS, Assured Security submitted a responsive bid of $173,977.75; 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.

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 $173,977.75; and

BE IT FURTHER RESOLVED, That the Deputy Executive Director be authorized to approve change orders in an amount not to exceed $17,398.

PREVIOUS BOARD ACTION

N/A

ATTACHMENTS

Attachment A: Public Advertisement
Attachment B: Bid Tabulation

CONTACT

Department Head: Kari Gill, Deputy Executive Director
Author: Troy Blakestad, Capital Projects Manager

AFFIDAVIT OF PUBLICATION

STATE OF MINNESOTA)
COUNTY OF DAKOTA) ss

I do solemly swear that the notice, as per the proof, was published in the edition of the

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 09/11/2026 and the last insertion being on 09/18/2026.

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 09/18/2026

_____

Notary Public

JACQUELINE HUERTA
Notary Public
Minnesota
My Commission Expires Jan. 31, 2029

Rate Information:
(1) Lowest classified rate paid by commercial users for comparable space:
$999.99 per column inch

Ad ID 1556172

DAKOTA COUNTY
COMMUNITY DEVELOPMENT AGENCY (CDA)
EAGAN, MN 55123

ADVERTISEMENT FOR BIDS

Notice is hereby given that sealed bids will be received by the Office of the Director of Housing Finance & Development, Dakota County CDA, Minnesota until **10:00 AM, Friday, October 9, 2026**, at the office of Dakota County Community Development Agency, 1228 Town Centre Drive, Eagan, MN 55123, at which time they will be publicly opened and read aloud for the furnishing of all labor and materials for the **Access Control Replacement Project at Lakeside Pointe and Parkview Plaza Senior Housing Developments in Dakota County, MN.**

This Project is subject to Minnesota Statutes 2019, section 16C.285 (Responsible Contractor's Act) and therefore requires a Verification of Compliance form included with the bid.

Bids received after this day and time will be rejected. No telephone bids nor faxed bids will be accepted. Bids shall be on the forms provided for this purpose and according to the Bidding Documents prepared by Dakota County CDA. Bids will be opened publicly and read aloud. A bid tabulation will be furnished to the Bidders. Bids shall be addressed to:

Senior Housing Access Control Replacement Project-Public Bid
c/o Dakota County CDA,
1228 Town Centre Drive, Eagan, MN 55123
Attn: Troy Blakestad

A mandatory pre-bid walkthrough is scheduled for Wednesday, September 23rd to tour both developments. This is required of ALL bidders. Failure of a bidder to attend the walkthrough immediately subjects their bid to disqualification. Interested bidders can contact **Troy Blakestad @ 651-675-4475** of the Dakota County CDA to obtain bid documents and receive more information regarding the walkthrough and this project.

Bid security in the amount of 5% of the bid must accompany the bid in accordance with the Instruction to Bidders. Any bid not including a bid security will be considered disqualified. Payment and Performance Bonds will also be required of the awarded party.

The CDA hereby notifies all bidders 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 CDA.

Troy Blakestad, Capital Projects Manager, Dakota County CDA

Published in the Dakota County Tribune
September 11, 18, 2026
1556172

Project: Access Control Replacement Project
For Lakeside Pointe and Parkview Plaza
Bid Opening: Friday, October 9, 2026: 10:00 a.m.
BID TABULATION

BIDDER	BID BOND	Addenda 1 Noted	BASE BID	Alternate #1
Assured Security	☑	☑	$ 167,487.25	$ 6,490.50
Safeguard Security	☑	☑	$ 174,303.00	$ 10,724.00

Dakota County

CDA

Board of Commissioners

Request for Board Action

Meeting Date: October 27, 2026 Agenda #: 5E

DEPARTMENT: Property Management
FILE TYPE: Regular - Consent

TITLE
Approval Of 1.0 FTE Budget Authority To Hire A Property Management Systems Administrator For The Property Management Department

PURPOSE/ACTION REQUESTED
Approval to add 1.0 FTE Property Management Systems Administrator in the Property Management department.

SUMMARY
In 2025, an organizational study was finalized for the Property Management department. Conclusions of this study included recommendations for adjustments to staffing levels to better serve the 2,900+ households that live in CDA housing units.

In January 2026, the Board approved the addition of a Resident Services Manager position and in the FYE27 budget, a Resident Services Specialist position was added.

Since filling those rolls, Property Management and Human Resources staff have determined there is still a need to fully launch the department's use of Yardi (housing database software) and there is not capacity to take this initiative on with current staffing. The new FTE will be devoted to improving business processes, implementing Yardi workflows and platforms to automate current processes and improve communication to residents, and managing integrations of new Yardi modules.

RECOMMENDATION
Staff recommends revising the authorized full-time positions schedule in the FYE27 Operating Budget and Plan to increase Property Management staffing by 1.0 FTE.

EXPLANATION OF FISCAL/FTE IMPACTS
The cost to add this position (salary, benefits and overhead administrative costs) for the remainder of FYE27 is estimated to be $93,000.

☐ None ☐ Current budget ☒ Amendment Requested ☐ Other

RESOLUTION
WHEREAS, to provide high levels of service to CDA residents, the Property Management department has determined the need for additional capacity; and

WHEREAS, the department has requested an additional 1.0 FTE Property Management Systems Administrator position.

WHEREAS, the cost to add this position for the remainder of the FYE27 budget is estimated to be $93,000.

NOW, THEREFORE BE IT RESOLVED by the Dakota County Community Development Agency Board of Commissioners, That the FYE27 Operating Budget and Plan for Property Management is hereby increased by 1.0 FTE; and

BE IT FURTHER RESOLVED, That the Property Management budget authority in the FYE27 Operating Budget be increased by $93,000.

PREVIOUS BOARD ACTION
26-7063; 1/20/2026
26-7120; 6/23/2026

ATTACHMENTS
N/A

CONTACT
Department Head: Anna Judge, Director of Property Management
Author: Anna Judge

Dakota County CDA

Board of Commissioners

Request for Board Action

Meeting Date: October 27, 2026 Agenda #: 6A

DEPARTMENT: Housing Development
FILE TYPE: Regular - Action

TITLE
Continue Public Hearing On The Disposition Of A DCCDA Section 18, LLC Property

PURPOSE/ACTION REQUESTED
Continue the public hearing regarding the disposition of a vacant single family property in Inver Grove Heights.

SUMMARY
The Dakota County CDA, as the sole member of the DCCDA Section 18, LLC, owns single family homes and duplexes that were previously part of the Public Housing Program and were acquired by the LLC through the U.S. Department of Housing and Urban Development (HUD) Section 18 Demo/Dispo Program.

HUD's Special Applications Center has approved the disposition of the Section 18 units. If a current resident has an interest in purchasing the property or if a property becomes vacant, CDA staff assesses the property to determine if it should be sold. The units must be sold at Fair Market Value to the current resident or on the market through public bid.

On August 18, 2026, the CDA Board set a public hearing for the disposition of one DCCDA Section 18, LLC property, a single-family home located at 6463 Delilah Court in Inver Grove Heights.

The public hearing was opened and continued at the September 22, 2026 CDA Board meeting. The CDA is continuing to solicit offers on the property.

RECOMMENDATION
Staff recommends continuing the public hearing to the November 17, 2026 CDA Board meeting.

EXPLANATION OF FISCAL/FTE IMPACTS
N/A

☒ None ☐ Current budget ☐ Amendment Requested ☐ Other

RESOLUTION
WHEREAS, the Dakota County CDA is able to dispose of property after holding a public hearing for which a notice is published; and

WHEREAS, a notice of the public hearing was published in the Dakota County Tribune per Minnesota Statute Sec. 469.105; and

WHEREAS, the property proposed for sale is part of the DCCDA Section 18, LLC that was created for the transition of public housing units through the U.S. Housing and Urban Development's Section 18 Demo/Dispo program; and

WHEREAS, the U.S. Department of Housing and Urban Development's Special Applications Center has approved the disposition of the Section 18 units on the open market through public bid; and

WHEREAS, the public hearing was opened at the September 22, 2026 CDA Board meeting and was continued; and
Click or tap here to enter text.
WHEREAS, no offers have been received for the property and it continues to be marketed to solicit offers.

NOW, THEREFORE BE IT RESOLVED by the Dakota County Community Development Agency Board of Commissioners, That the public hearing is continued to the November 17, 2026 CDA Board meeting.

PREVIOUS BOARD ACTION
26-7130; 8/18/2026
26-7152; 9/22/2026

ATTACHMENTS
None.

CONTACT
Department Head: Kari Gill, Deputy Executive Director
Author: Lori Zierden, Real Estate Manager

Dakota County CDA

Board of Commissioners

Request for Board Action

Meeting Date: October 27, 2026 Agenda #: 6C

DEPARTMENT: Community and Economic Development
FILE TYPE: Regular - Action

TITLE
Commitment Of The Dakota County CDA's 2027 9% Low Income Housing Tax Credits

PURPOSE/ACTION REQUESTED
Approve the commitment of the Dakota County CDA's 2027 9% Low Income Housing Tax Credits.

SUMMARY
The Dakota County CDA is a Suballocator of 9% Low Income Housing Tax Credits (Tax Credits) and is currently authorized to allocate $1,411,414 of 2027 Tax Credits within Dakota County. The Tax Credits are allocable to affordable rental housing developments on a competitive basis according to a selection process set forth in the CDA's Housing Tax Credit Qualified Allocation Plan for 2027 (2027 QAP). In accordance with state and federal requirements, a public hearing was held at the April 21, 2026 CDA Board of Commissioners meeting prior to CDA Board's adoption of the 2027 QAP (Resolution #26-7102).

Two applications were received by the July 10, 2026 deadline, requesting a total of $2,971,414 in Tax Credits. The applications are summarized in the following table.

Project Name:	**Camber Hill Townhomes**	**65th Street Apartments**
City Location	South St. Paul	Inver Grove Heights
Owner	Camber Hill, LLLP	65th Street Apartments, Limited Partnership
Developer	Twin Cities Housing Development Corporation	Connelly Development, LLC/Ron Clark Construction and Design
Type	Preservation/Rehabilitation	New Construction
Number of Tax Credit Units	44 units	49 units
2027 Tax Credit Request	$1,411,414	$1,560,000

Tax Credits are allocated to affordable rental housing development on a competitive basis according to a selection process set forth in the 2027 QAP. The applications were scored as follows:

- Camber Hill, LLLP – Camber Hill Townhomes……108 points
- 65th Street Limited Partnership – 65th Street Apartments…..68 points

RECOMMENDATION

Based on the review of the application materials submitted and the scores of the two applicants, staff recommends a commitment of all of the 2027 Tax Credits available to Camber Hill Townhomes in the amount of $1,411,414. Together with their 2026 Tax Credit award of $362,184 is a total of $1,772,598 Tax Credits.

Additionally, staff recommends establishing a wait list for Camber Hill Townhomes, which will allow the CDA to commit additional Tax Credits should they become available from Minnesota Housing. If this occurs, the CDA will review the Camber Hill Townhomes need for additional Tax Credits at that time. If it is determined Camber Hill Townhomes does need the additional Tax Credit the commitment amount will be increased accordingly and if the project does not need the additional Tax Credits the Tax Credits will be returned to Minnesota Housing. The CDA may continue to commit Tax Credits to the project until the application deadline for Minnesota Housing's Round 2, tentatively scheduled for January 31, 2027.

EXPLANATION OF FISCAL/FTE IMPACTS

None. The Tax Reform Act of 1986 created the Housing Tax Credit Program as a means of raising private capital to finance affordable rental housing and the CDA is authorized under Minnesota Statutes Section 462A.222 to allocate tax credits for eligible projects in Dakota County. The tax credit is a 10-year annual reduction in the tax liability of investors in affordable housing and does not require any commitment of CDA funds. The investor, typically a private corporation, makes an initial equity contribution to the development to receive the annual tax credit.

Applicants pay fees throughout the process to administer the tax credits that equal 5% of the annual allocation. These fees are used to cover staff administration of the program.

☒ None ☐ Current budget ☐ Amendment Requested ☐ Other

RESOLUTION

WHEREAS, pursuant to Minnesota Statutes §462A.221 through 462A.225 (the Act), the Dakota County CDA is a Suballocator of 9% Low Income Housing Tax Credits (Tax Credits); and

WHEREAS, in accordance with Section 42 of the Internal Revenue Code of 1986, as amended (the Code), by Resolution No. 26-7102, adopted on April 21, 2026, following a public hearing for which notice was duly published, the CDA adopted a Qualified Allocation Plan for 2027 tax credits (the 2027 QAP) setting forth criteria governing the award of the Agency's 2027 Tax Credits; and

WHEREAS, because the members of the Dakota County Board of Commissioners are the ex-officio members of the CDA, the approval of such Resolution by the CDA satisfies the requirement that the 2027 QAP be approved by the applicable elected representative of the CDA; and

WHEREAS, the CDA received two applications for the 2027 Tax Credits by the first-round deadline, with applications from: (1) Camber Hill, LLLP, the developer of which is Twin Cities Housing Development Corporation, for the acquisition and rehabilitation of a 44-unit townhome development in South St. Paul, known as Camber Hill Townhomes; and (2) 65th Street Apartments Limited Partnership, the developer of which is Connelly Development, LLC/Ron Clark Construction and Design, for the construction of a 49-unit multifamily development in Inver Grove Heights, known as 65th Street Apartments; and

WHEREAS, pursuant to Minnesota Statutes § 462A.222, Subd. 3, any 2027 Tax Credits which are not committed by the CDA prior to Minnesota Housing's second round of application deadline are required to be returned to Minnesota Housing.

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

1. The CDA hereby finds and determines with respect to the Camber Hill, LLLP and 65th Street Apartments Limited Partnership applications that:

    a. The applications for Tax Credits for Camber Hill Townhomes and 65th Street Apartments are complete in all material respects.

    b. The allocation of Tax Credits requested by each of the applicants does not exceed the amount necessary for the financial feasibility of the respective projects and their viability as qualified low income housing projects throughout the 15 year compliance period.

    c. On the basis of the applications submitted, the Tax Credit scores for the applicants are as follows:
        - Camber Hill, LLLP – Camber Hill Townhomes……108 points
        - 65th Street Limited Partnership – 65th Street Apartments…..68 points

2. In making the determination set forth in 1b above, the CDA considered (a) the sources and uses of funds and the total financing planned for each project; (b) any proceeds or receipts expected to be generated by reason of tax benefits; (c) the percentage of the tax credit dollar amount used for project costs other than costs of the intermediaries; and (d) the reasonableness of the development and operational costs of each project.

3. The CDA hereby approves the commitment of all of its 2027 Tax Credits to Camber Hill Townhomes in the amount of $1,411,414.

4. The CDA hereby authorizes the establishment of a waiting list for additional Tax Credits for the Camber Hill Townhomes project. The purpose of the waiting list is to permit the CDA to commit any 2027 Tax Credits that may become available from Minnesota Housing to the project.

5. Staff is authorized to prepare, execute and deliver all documentation necessary or convenient to provide for the commitment of its 2027 Tax Credits pursuant to this regulation and the subsequent carryover and allocation of the same, based on findings made in accordance with the requirements of the Code as each such steps. Staff is further authorized to take any actions necessary return any unused 2027 Tax Credits to Minnesota Housing prior to the second round deadline in the event Tax Credits are returned and not fully committed to a project on the waiting list.

PREVIOUS BOARD ACTION
26-7073; 2/17/2026
26-7102; 4/21/2026

ATTACHMENTS
Attachment A: Camber Hill Townhomes Location and Site Map

Attachment B: 65th Street Apartments Location and Site Map

CONTACT
Department Head: Lisa Alfson, Director of Community and Economic Development
Author: Kathy Kugel, Housing Finance Manager

Attachment A. Camber Hill Townhomes Location and Site Map



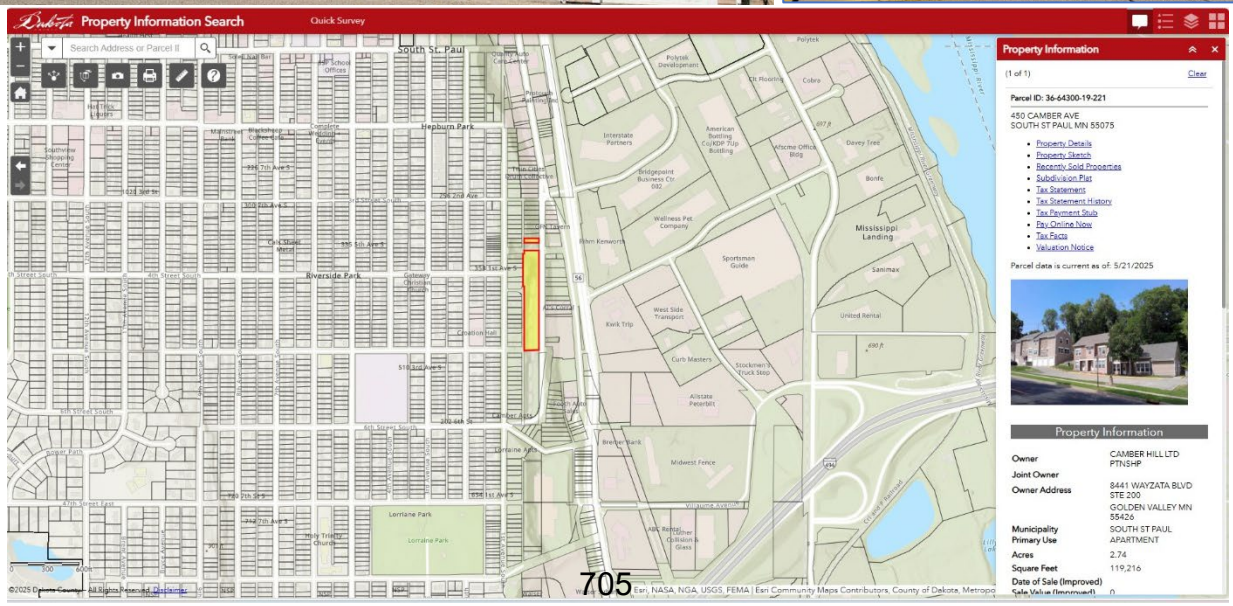










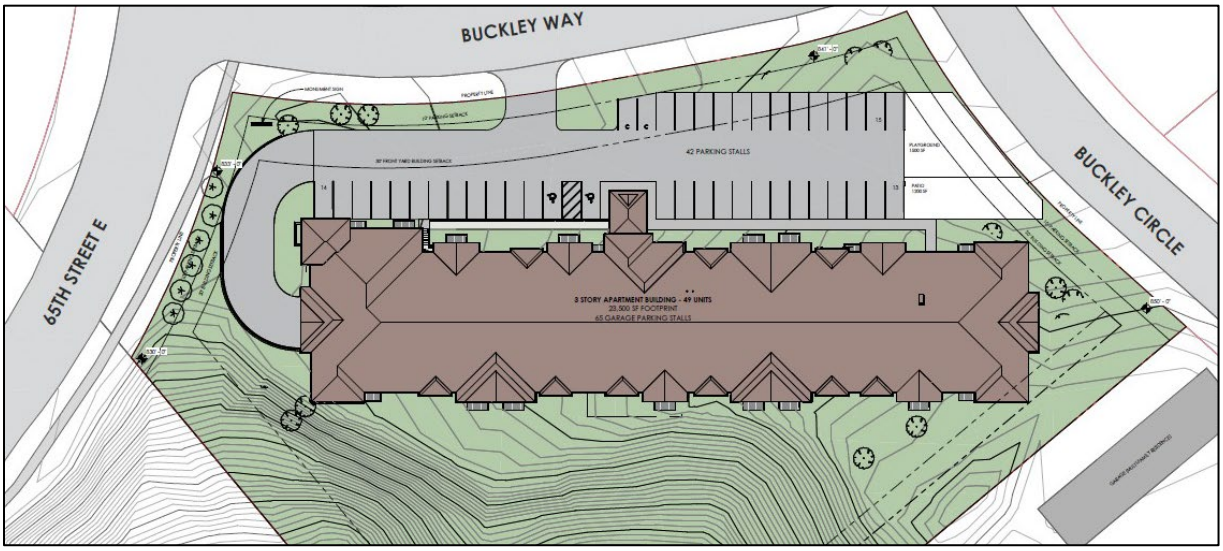


Attachment B. 65th Street Apartments Location and Site Map

65TH STREET APARTMENTS

65TH STREET E / BUCKLEY WAY,
INVER GROVE HEIGHTS, MN 55076







Board of Commissioners

Request for Board Action

Meeting Date: October 27, 2026 Agenda #: 6D

DEPARTMENT: Community and Economic Development
FILE TYPE: Regular - Action

TITLE
Establish A Date For A Public Hearing Regarding A Housing Finance Program And Issuance Of Housing Development Bonds Backed By Full Faith And Credit Of Dakota County Pursuant To Minnesota Statutes, Section 469.034, Subd. 2

PURPOSE/ACTION REQUESTED
Establish a date for a public hearing.

SUMMARY
The Dakota County Community Development Agency (CDA) has started construction of Crestview Pointe, a 57-unit senior housing development (the "Project") located on Cahill Avenue at the corner of Cheney Trail in Inver Grove Heights. This Project will be the first building in the preliminary Phase IV of the Dakota County CDA Senior Housing Capital Improvement Plan (the "CIP"). The financing plan for Phase IV CIP developments includes the issuance of bonds.

The CDA proposes to finance the construction of the Project by issuing housing development bonds pursuant to the CDA's Common Bond Fund (the "Bonds"). The Bonds will be secured by revenues generated by the Project and by the CDA Special Benefit Levy, and secondarily by a pledge by the CDA of the full faith and credit of Dakota County. The CDA will request that Dakota County hold a public hearing and extend its general obligation pledge to these bonds on December 1, 2026.

Minnesota Statutes 469.001 through 469.047, require that the CDA hold a public hearing regarding (i) a housing finance program relating to the Bonds, and (ii) the pledge of the County's full faith and credit to the Bonds.

The purpose of this action is to set the date of the CDA's public hearing for November 17, 2026, at or after 3:00 p.m. The resolution will authorize the Executive Director to complete a notice (Attachment A).

RECOMMENDATION
Staff recommends setting the date of the CDA's public hearing for November 17, 2026 and to authorize the Executive Director to complete a notice.

EXPLANATION OF FISCAL/FTE IMPACTS
Under the Common Bond Fund, revenue from all housing buildings is dedicated to paying debt service on all outstanding bonds. The preliminary Senior Housing CIP for Phase IV includes a financial analysis of several scenarios demonstrating the projected revenues and CDA's special benefit levy are sufficient to make debt service payments on the proposed bonds. The proposed issuance assumes the continued use of the County's general obligation pledge to credit enhance the

bonds, the approval for which will be sought from the County Board of Commissioners in early December.

☐ None ☐ Current budget ☐ Amendment Requested ☐ Other

RESOLUTION

WHEREAS, pursuant to Minnesota Statutes, Sections 469.001 through 469.047 (the "Act"), and particularly Section 469.034, Subd. 2, the Dakota County Community Development Agency (the "CDA") is authorized to issue its bonds for the purpose of financing the construction of qualified housing development projects, and with the consent of Dakota County (the "County"), to pledge the County's full faith and credit to such bonds; and

WHEREAS, the CDA proposes to undertake one "qualified housing development project" (as described in Minnesota Statutes, Section 469.034, Subd. 2(e)) providing housing for low and moderate income persons, within the County (the "Development"); and

WHEREAS, the CDA will request that the County pledge its full faith and credit to housing development revenue bonds of the CDA (the "Bonds") to finance the construction of the Development; and

WHEREAS, the Act requires as a condition precedent to issuance of the Bonds that both the CDA and the County hold public hearings regarding the issuance of the Bonds; and

WHEREAS, pursuant to the Act, the CDA is required to adopt a housing finance program (the "Program") with respect to the Development.

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

1. That a public hearing will be held by the Dakota County Community Development Agency (the "CDA") on November 17, 2026 on or after 3:00 p.m. for the purpose of receiving comments regarding: (i) a housing finance program (the "Program") providing for the issuance by the CDA of bonds (the "Bonds") to finance a multifamily housing development to be located in Inver Grove Heights; and (ii) the pledge by the CDA of the full faith and credit of Dakota County (the "County") to secure the Bonds pursuant to Minnesota Statutes, Section 469.034, Subd. 2 (the "Act").

2. That the Executive Director or his designee is hereby authorized and directed to cause notice of such public hearing to be published in a newspaper of general circulation in Dakota County, and to cause a copy of the Program to be submitted to the Metropolitan Council, not fewer than ten (10) days prior to such hearing.

3. That the CDA requests the Board of Commissioners of the County to hold a public hearing and approve the pledge by the CDA of the County's full faith and credit to the Bonds, in accordance with the Act.

PREVIOUS BOARD ACTION

25-7035; 11/18/2025
26-7071; 2/17/2026

ATTACHMENTS
Attachment A: Draft Public Hearing Notice

CONTACT
Department Head: Lisa Alfson, Director of Community and Economic Development
Author: Kathy Kugel, Housing Finance Manager

NOTICE OF PUBLIC HEARING REGARDING A HOUSING FINANCE PROGRAM AND THE PLEDGE BY THE DAKOTA COUNTY COMMUNITY DEVELOPMENT AGENCY OF THE FULL FAITH AND CREDIT OF DAKOTA COUNTY TO BONDS ISSUED PURSUANT TO THE PROGRAM

DAKOTA COUNTY COMMUNITY DEVELOPMENT AGENCY

NOTICE IS HEREBY GIVEN that the Board of Directors of the Dakota County Community Development Agency (the "**CDA**") will meet on Tuesday, November 17, 2026 at or after 3:00 p.m. at its offices located at 1228 Town Centre Drive, Eagan, Minnesota, for the purpose of conducting a public hearing regarding:

- the adoption of a finance program (the "**Program**"), pursuant to Minnesota Statutes, Chapter 462C providing for the financing of a qualified housing development project to be constructed by the CDA in Inver Grove Heights, which will provide affordable rental housing (the "**Development**");
- the issuance of not to exceed $16,000,000 of housing development bonds by the CDA (the "**Bonds**") pursuant to the Program; and
- the pledge by the CDA of the full faith and credit of Dakota County to secure the Bonds, pursuant to Section 469.034, subd. 2, as amended.

The Bonds shall be revenue obligations of the CDA secured by, and expected to be paid primarily from, revenues pledged to the payment thereof, and further secured by a pledge of the full faith and credit of 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 9:00 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.
- If you wish to speak at the public hearing, please notify the Clerk to the Board via email at sjacobson@dakotacda.org. Emails must be received by 12:00 pm of the day of the meeting. Instructions on how to participate will be sent to anyone interested.

[Date of Publication]

BY ORDER OF THE BOARD OF COMMISSIONERS OF THE DAKOTA COUNTY COMMUNITY DEVELOPMENT AGENCY

By /s/ Tony Schertler
Executive Director