Chapter 16

PROGRAM ADMINISTRATION

**INTRODUCTION**

This chapter discusses administrative policies and practices that are relevant to the activities covered in this ACOP. The policies are discussed in seven parts as described below:

Part I: Setting Utility Allowances. This part describes how utility allowances are established and revised. Also discussed are the requirements to establish surcharges for excess consumption of PHA-furnished utilities.

Part II: Establishing Flat Rents. 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 PHA will offer repayment agreements to families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part IV: Public Housing Assessment System (PHAS). This part describes the PHAS indicators, how PHAs are scored under PHAS, and how those scores affect a PHA.

Part V: Record Keeping. All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies the PHA will follow.

Part VI: Reporting and Record Keeping for Children with Elevated Blood Lead Level. This part describes the PHA’s reporting responsibilities related to children with elevated blood lead levels that are living in public housing.

Part VII: Violence against Women Act (VAWA): Notification, Documentation, and Confidentiality. This part contains key terms used in VAWA and describes requirements related to notifying families about their rights and responsibilities under VAWA; requesting documentation from victims of domestic violence, dating violence, sexual assault, 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**

This section provides an overview for Part I. **No policy decisions are required.**

**16-I.B UTILITY ALLOWANCES**

This section discusses the requirements related to establishing and revising utility allowances.

**Air-Conditioning**

**☑ Decision Point: Has the PHA installed air conditioning in any of its units?**

Things to Consider

* In addition to complying with the basic requirements for developing a utility allowance schedule, the PHA must make determinations about air-conditioning, if installed by the PHA. The regulations speak specifically to these requirements.
* If the PHA has not installed air conditioning there is no issue to be addressed here. If the PHA has installed air conditioning, it needs to follow the guidelines as specified in 24 CFR 965.505(e) which apply to the type of system the PHA has installed.

**CAUTION:** **You must edit the model policy. The model ACOP does not contain language that can be adopted as-is.**

🞎 *Option 1: If the PHA* ***has*** *installed air-conditioning for any of its units, use the model ACOP language shown below, deleting “[has not]” and add a description of the units affected, the type of system(s) installed, and PHA-established utility allowance policies concerning the specific system(s) provided.*

The PHA has installed air-conditioning.

🞎 *Option 2: If the PHA* ***has not*** *installed air-conditioning, use the model ACOP language shown below, deleting “[has].” No other changes to the model ACOP are needed.*

The PHA has not installed air-conditioning.

**Utility Allowance Revisions [24 CFR 965.507]**

**☑ Decision Point:** **Will the PHA revise its utility allowances for resident-purchased utilities between annual reviews when not required to by the regulation?**

Things to Consider

* The regulations require PHAs to revise its allowances for resident-purchased utilities between annual reviews 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 the allowance was based.
* The PHA has the option of revising its allowance for resident-purchased utilities between annual reviews if the rate change (together with any prior rate changes) is less than 10 percent.
* There is a significant administrative burden with revising utility allowances based on rate changes in between annual reviews. According to the regulations, the PHA is required to make adjustments to resident payments as a result of such changes retroactive to the first day of the month following the month in which the last rate change taken into account became effective. To minimize the PHA’s work in this area, the model policy states that the PHA will only make these changes when required to under the regulation.

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

Between annual reviews of utility allowances, the PHA will only revise its utility allowances due to a rate change, when required to by the regulation.

🞎 *Option 2: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**16-I.C. SURCHARGES FOR PHA-FURNISHED UTILITIES [24 CFR 965.506]**

This section describes requirements related to establishing surcharges for units with PHA-furnished utilities.

**☑ Decision Point: Does the PHA have PHA-furnished utilities in any of its units?**

Things to Consider

* If the PHA does not have PHA-furnished utilities there is no issue to be addressed here. If the PHA does, it needs to follow the requirement in 24 CFR 965.506 related to establishing surcharges for excess consumption of PHA-furnished utilities.

**CAUTION:** **You must edit the model policy. The model ACOP does not contain language that can be adopted as-is.**

🞎 *Option 1: If the PHA* ***does*** *have PHA-furnished utilities for any of its units, use the model ACOP language shown below, deleting “[does not].” No other changes to the model ACOP are needed.*

The PHA does have PHA-furnished utilities.

🞎 *Option 2: If the PHA* ***does not*** *have PHA-furnished utilities for any of its units, use the model ACOP language shown below, deleting “[does].” No other changes to the model ACOP are needed.*

The PHA does not have PHA-furnished utilities.

**16-I.D. NOTICE REQUIREMENTS [965.502]**

This section describes notice requirements related to establishing or revising utility allowances and scheduled surcharges. **No policy decisions are required.**

**16-I.E. REASONABLE ACCOMMODATION AND INDIVIDUAL RELIEF [24 CFR 965.508]**

This section explains requirements related to utility allowances, surcharges and reasonable accommodations. Reasonable accommodation policies can be found in Chapter 2. **No policy decisions are required.**

PART II: ESTABLISHING FLAT RENTS

**16-II.A. OVERVIEW**

This section provides an overview for Part I. **No policy decisions are required.**

**16-II.B. FLAT RENTS [24 CFR 960.253(b) and Notice PIH 2022-33]**

**Establishing Flat Rents**

This section describes the requirements for establishing flat rents, including the factors that must be considered in doing so. **No policy decisions are required.**

**Review of Flat Rents**

**☑ Decision Point:** **If the FMR falls from year to year, will the PHA lower the flat rent?**

Things to Consider

* The PHA must review flat rent annually.

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

If the FMR/SAFMR/unadjusted rent is lower than the previous year, the PHA will reduce flat rents to 80 percent of the current FMR/SAFMR.

🞎 *Option 2: If you choose not to lower flat rents, delete the model ACOP language and substitute language as shown below.*

If the FMR/SAFMR is lower than the previous year, flat rents will not be affected.

🞎 *Option 3: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**Applying Flat Rents**

**☑ Decision Point:** **When will the PHA apply flat rents after implementation?**

Things to Consider

* The model policy offers clarification as to when the PHA will apply flat rents after implementation.

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

The PHA will apply updated flat rents at each family’s next annual reexamination or flat rent update after implementation of the new flat rents.

🞎 *Option 2: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**Posting of Flat Rents**

**☑ Decision Point:** **Will the PHA post the flat rent schedule?**

Things to Consider

* There is no requirement to post the flat rent schedule, however, it is a good way to keep residents informed.

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

The PHA will publicly post the schedule of flat rents in a conspicuous manner in the applicable PHA or project office.

🞎 *Option 2: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**Documentation of Flat Rents [24 CFR 960.253(b)(5)]**

This section describes the requirement for PHAs to maintain records that document the methodology used to establish flat rents, as well as how the PHA determined the flat rents in accordance with the methodology. No policy decisions are required.

PART III: FAMILY DEBTS TO THE PHA

16-III.A. OVERVIEW

Families are required to reimburse the PHA if they were charged less rent than required because the family either underreported or failed to report income. PHAs need to have policies concerning repayment by a family of amounts owed to the PHA.

**☑ Decision Point: Will the PHA utilize repayment agreements?**

Things to Consider

* Notice PIH 2018-18 provides HUD’s guidance on repayment agreements.
* Families are required to reimburse the PHA if they were charged less rent than required by HUD’s rent formula due to the tenant’s underreporting or failure to report income. The family is required to reimburse the PHA for the difference between the tenant rent that should have been paid and the tenant rent that was charged.
* By offering repayment agreements, the PHA may allow some families to avoid having their tenancy terminated.
* PHAs may be more likely to recover amounts owed if payment can be made in monthly installments rather than all at once.
* When PHAs recover amounts that are due as a result of tenant fraud, PHAs may retain 100 percent of funds collected if they enter into a repayment agreement with the family to collect excess subsidies owed to the program, initiate litigation to recover excess subsidies, or begin eviction proceedings against the family [Notice PIH 2007-27
* If you do not wish to offer repayment agreements, select Option 2.

🞎 *Option 1: Use the ACOP language shown below. No changes to the model ACOP are needed.*

When an action or inaction of a resident family results in the underpayment of rent or other amounts, the PHA holds the family liable to return any underpayments to the PHA.

The PHA will enter into repayment agreements in accordance with the policies contained in this part as a means to recover underpayments.

🞎 *Option 2: If you choose not to offer repayment agreements, delete the model ACOP language and substitute language as shown below.*

When an action or inaction of a resident family results in the overpayment of subsidy, the PHA holds the family liable to return any overpayments to the PHA.

The PHA will **not** offer to enter into repayment agreements as a means to recover overpayments.

🞎 *Option 3: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**16-III.B. REPAYMENT POLICY**

Family Debts to the PHA

**☑ Decision Point: How many days will a family be given to repay a debt, and what action will the PHA take if the family is unable to pay within this timeframe?**

Things to Consider

* In most cases, families will be unable to repay a debt within 30 days. Therefore, the model policy states that families who are unable to do so will be offered a repayment agreement in accordance with the policies in this part.
* If your PHA has chosen not to enter into repayment agreements, select Option 2.

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

Any amount owed to the PHA by a public housing family must be repaid. If the family is unable to repay the debt within 30 days, the PHA will offer to enter into a repayment agreement in accordance with the policies below.

🞎 *Option 2: If you choose not to offer repayment agreements, delete the model ACOP language and substitute language as shown below.*

Any amount due to the PHA by a public housing family must be repaid by the family within 30 days of the PHA determination of the debt. If the family refuses to repay the debt within the required time frame, the PHA will terminate the family’s tenancy in accordance with the policies in Chapter 13 and pursue other modes of collection.

🞎 *Option 3: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**Refusal to Enter into An Agreement**

**☑ Decision Point: What other collection methods will the PHA utilize?**

Things to Consider

* HUD does not authorize any PHA “amnesty” or debt-forgiveness programs (Notice PIH 2018-18). PHAs must attempt to recover overpaid subsidy.
* PHAs should be aware of the limitations of other collection methods. For example, civil collections can be expensive and time consuming, not all states have income tax set-off programs, and collection agencies charge a fee (percentage of the amount collected).
* If your PHA uses other methods to collect debts, the model policy should be edited to include those methods.

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

When a family refuses to repay monies owed to the PHA, the PHA will utilize other available collection alternatives including, but not limited to, the following:

Collection agencies

Small claims court

Civil lawsuit

State income tax set-off program

🞎 *Option 2: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**Repayment Agreement [24 CFR 792.103]**

This section defines the term *repayment agreement*. **No policy decisions are required.**

General Repayment Agreement Guidelines

**IMPORTANT NOTE:**

If your PHA has chosen not to enter into repayment agreements, the remainder of this part is not applicable and should be deleted from the model ACOP.

If you have chosen to offer repayment agreements, continue with the remaining decision points in this part.

***Down Payment Requirement***

**☑ Decision Point: Will the PHA require a family to make a down payment prior to entering into a repayment agreement?**

Things to Consider

* The model policy generally requires the family to make a down payment of 10 percent of the total amount owed as a condition of entering into a repayment agreement.
* A down payment demonstrates a commitment to repay a debt which is important, but it also may deprive some families of the option of entering into a repayment agreement. Therefore, the model policy gives the PHA discretion to reduce the down payment or waive it entirely when a family can demonstrate that it would represent an undue hardship.
* As alternatives, the PHA could require a minimum dollar amount to be paid, rather than a minimum percentage of the debt, or the PHA could choose not to require any down payment.

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

Before executing a repayment agreement with a family, the PHA will generally require a down payment of 10 percent of the total amount owed. If the family can provide evidence satisfactory to the PHA that a down payment of 10 percent would impose an undue hardship, the PHA may, in its sole discretion, require a lesser percentage or waive the requirement.

🞎 *Option 2: Delete model ACOP language and substitute language as shown below.*

A family may, but will not be required to, make a down payment on the amount owed prior to entering into a repayment agreement with the PHA.

🞎 *Option 3: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

***Payment Thresholds***

**☑ Decision Point: How long will families have to repay their debt?**

Things to Consider

* Notice PIH 2018-18 recommends that PHAs calculate the monthly repayment amount for a family by subtracting the family’s monthly rent from 40 percent of the family’s monthly adjusted income (MAI). The default policy follows HUD’s “safe harbor” guidance by ensuring that the monthly repayment amount plus the tenant rent is “affordable.” However, this calculation method would result in a monthly repayment amount of zero for some families, including zero income families. For that reason, the minimum monthly repayment amount is set at $25. The PHA has the discretion to make exceptions in case of hardship.
* The default policy also calls for recalculating the family’s repayment obligation when the family’s income increases or decreases during the term of a repayment agreement. This ensures that the combination of tenant rent and the repayment amount remain at an affordable amount.
* While HUD recommends limiting the amount of repayment based on 40 percent of the family’s MAI, PHAs have the discretion to establish their own policies. Option 2 describes an alternative policy, in which the monthly repayment amounts and time limits depend upon the amount owed.
* Alternatively, the PHA may eliminate the thresholds and instead set a maximum amount for which it will enter into a repayment agreement and/or a maximum length of time for all repayment agreements.
* The first threshold under Option 2 implies that the PHA will not enter into repayment agreements when the debt exceeds the federal or state threshold for criminal prosecution. This policy is consistent with the policy under the heading, “No Offer of Repayment Agreement” later in this section of the model policy as well as with the policy in section 15-II.D. The decisions the PHA makes in these three places should be consistent.

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

If a family is paying less than 40 percent of its monthly adjusted income (MAI) in rent, the minimum monthly payment amount will be the greater of the following two amounts:

The difference between 40 percent of the family’s MAI and the TTP at the time the agreement is executed

$25

If a family can provide evidence satisfactory to the PHA that a monthly payment amount of $25 would impose an undue hardship, the PHA may, in its sole discretion, require a lower monthly payment amount.

If the family’s income increases or decreases during the term of a repayment agreement, either the PHA or the family may request that the monthly payment amount be adjusted accordingly.

🞎 *Option 2: Delete model ACOP language and substitute language as shown below.*

The PHA 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 PHA that the threshold applicable to the family’s debt would impose an undue hardship, the PHA may, in its sole discretion, determine that a lower monthly payment amount is reasonable. In making its determination, the PHA will consider all relevant information, including the following:

The amount owed by the family to the PHA

The reason for the debt, including whether the debt was the result of family action/inaction or circumstances beyond the family’s control

The family’s current and potential income and expenses

The family’s current tenant rent, as calculated under 24 CFR 960.253(c)

The family’s history of meeting its financial responsibilities

🞎 *Option 3: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

***Execution of the Agreement***

**☑ Decision Point: Who will be required to sign the repayment agreement?**

Things to Consider

* If only the head of household signs the agreement and later leaves the family, the PHA has no acknowledgement of the debt by the spouse/cohead.
* Notice PIH 2018-18 requires all repayment agreements to be dated and signed “by both the tenant and the PHA.”

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

Any repayment agreement between the PHA and a family must be signed and dated by the PHA and by the head of household and spouse/cohead (if applicable).

🞎 *Option 2: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

***Due Dates***

**☑ Decision Point: What is the due date for payments to the PHA?**

Things to Consider

* The model policy calls for all payments under repayment agreements to be due on the 15th of each month. If the PHA permits a family to select the due date, and the PHA has multiple agreements, monitoring will be difficult.
* Because many bills (including rent) are due on or about the 1st, the family may be better able to pay the amount under a repayment agreement in the middle of the month.

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

All payments are due by the close of business on the 15th day of the month. If the 15th does not fall on a business day, the due date is the close of business on the first business day after the 15th.

🞎 *Option 2: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

***Late or Missed Payments***

**☑ Decision Point: What will the PHA consider as “breach” or default of a repayment agreement?**

Things to Consider

* It is important for the PHA to enforce the terms of repayment agreements. If the PHA fails to do so, the PHA will collect less money and will imply to participants that they do not have to fulfill the terms of their repayment agreement in order to continue living in public housing.
* If the PHA fails to monitor repayment agreements, it will also be a disincentive for staff to be diligent in fraud prevention and detection.
* The model policy allows the family a “grace” period of 10 business days to make a late payment. PHAs are not required to offer this type of grace period.
* The model policy also allows a PHA to find a family in default of their repayment agreement and terminate tenancy if there is a pattern of making late payments. The model policy sets the standard at three delinquency notices in a 12-month period; however, a PHA could choose to increase or decrease that number.

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by the PHA, the PHA will send the family a delinquency notice giving the family 14 business days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and the PHA will terminate tenancy in accordance with the policies in Chapter 13.

If a family receives three delinquency notices for unexcused late payments in a 12-month period, the repayment agreement will be considered in default, and the PHA will terminate tenancy in accordance with the policies in Chapter 13.

🞎 *Option 2: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

***No Offer of Repayment Agreement***

**☑ Decision Point: Under what circumstances will the PHA not enter into a repayment agreement with a family or owner?**

Things to Consider

* There may be conditions under which a PHA will not want to enter into a repayment agreement. These conditions should be clearly identified in the PHA’s policies.
* The model policy specifies two conditions under which the PHA will generally not enter into a repayment agreement. The second condition (the debt exceeds the federal or state threshold for criminal prosecution) is consistent with the policy under “Payment Thresholds” in this section and with the policy in section 15-II.D of the ACOP.
* A third condition that the PHA might wish to add is if the PHA determines that the family’s debt is a result of program abuse or fraud. Option 2 includes this third condition.

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

The PHA generally will not enter into a repayment agreement with a family if there is already a repayment agreement in place with the family, or if the amount owed by the family exceeds the federal or state threshold for criminal prosecution.

🞎 *Option 2: Delete model ACOP language and substitute language as shown below.*

The PHA 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 PHA.

The PHA 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.

🞎 *Option 3: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

***Repayment Agreement Terms***

This section describes certain provisions that Notice PIH 2018-18 mandates for inclusion in all repayment agreements with families that have underreported or failed to report income. **No policy decisions are required.**

PART IV: PUBLIC HOUSING ASSESSMENT SYSTEM (PHAS)

16-IV.A. OVERVIEW

This section provides a brief overview of the Public Housing Assessment System (PHAS). **No policy decisions are required.**

16-IV.B. PHAS INDICATORS [24 CFR 902 Subparts A, B, C, D, and E]

This section includes a table that lists each of the PHAS indicators, contains a description of each indicator, and identifies the points available under each indicator. **No policy decisions are required.**

16-IV.C. PHAS SCORING [24 CFR 902, Subpart F]

This section explains the scoring and designation status, and the impact that PHAS ratings can have on a PHA. **No policy decisions are required.**

PART V: RECORD KEEPING

**16-V.A. OVERVIEW**

The PHA must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements. **No policy decisions are required.**

**16-V.B. RECORD RETENTION [24 CFR 908.101 and 24 CFR 982.158]**

**☑ Decision Point: How long will the PHA keep tenant files and other public housing records?**

Things to Consider

* The only regulatory requirement regarding record retention for the public housing program is 24 CFR 908.101, which requires the PHA to 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. Because record keeping requirements in the public housing are so few, the record keeping policies in the model ACOP are largely based on requirements in the HCV program.
* PHAs 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]. As such, the model policy opts to maintain these reports for the duration of the tenancy and for three years from the EOP date.
* In addition, 24 CFR 5.2002(e)(12) requires that the PHA keep confidential records of all emergency transfer requested under the PHA’s Emergency Transfer Plan, and the outcomes of such requests, and retain the records for a period of three years, or for a period of time as specific in program regulations. The regulation further requires that these requests and outcomes be reported to HUD annually, although HUD has not yet established the mechanism for annual reporting.
* Notice PIH 2014-20 requires the PHA to keep records of all complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule. While not required by HUD, Option 1 of this policy states the PHA will also keep a record of all complaints under VAWA as well the required records of Fair Housing Act and equal access complaints. This policy mirrors the model policy in Chapter 2 about the VAWA complaint process which states the PHA will keep a record of all VAWA complaints. If the PHA amended the policy in Chapter 2 to remove this language, the PHA should also amend the language below.
* The PHA could choose to keep records, other than tenant files and confidential records pertaining to emergency transfer requests, for less than three years. However, for administrative ease, the policy states the PHA will keep all records for a minimum of three years.
* PHAs may add items to the list in the model policy to reflect actual PHA practice. As a safeguard, the model policy does have a general statement covering records that are not specifically listed in the policy.

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

The PHA 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 PHA will keep Enterprise Income Verification (EIV) system Income Reports in the tenant file for the duration of the tenancy and for a period not to exceed three years from the end of participation date.

In addition, the PHA will keep the following records for at least three years:

An application from each ineligible family and notice that the applicant is not eligible

Lead-based paint records as required by 24 CFR 35, Subpart B

Documentation supporting the establishment of flat rents

Documentation supporting the establishment of utility allowances and surcharges

Documentation related to PHAS

Accounts and other records supporting PHA budget and financial statements for the program

Complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act, the equal access final rule or VAWA

Confidential records of all emergency transfers related to VAWA requested under the PHA’s Emergency Transfer Plan and the outcomes of such requests

Other records as determined by the PHA or as required by HUD

If a hearing to establish a family’s citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 14-II.A.

🞎 *Option 2: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**16-V.C. RECORDS MANAGEMENT**

**☑ Decision Point: How will applicant and resident files be stored and what action will the PHA take for inappropriate disclosure or discussion of family information by PHA staff?**

Things to Consider

* This type of policy reassures applicants and families that their private information will be protected at all times, as well as informs employees what is expected of them.

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

All applicant and participant information will be kept in a secure location and access will be limited to authorized PHA staff.

PHA staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

🞎 *Option 2: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**Privacy Act Requirements [24 CFR 5.212 and Form-9886-A]**

This section describes the PHA’s obligation to maintain applicant and participant information in accordance with Privacy Act requirements and all other provisions of applicable Federal, State, and local law. **No policy decisions are required.**

**Upfront Income Verification (UIV) Records**

**☑ Decision Point: Will the PHA adopt and implement UIV Security procedures prior to accessing HUD’s EIV system?**

Things to Consider

* PHAs that access UIV data through HUD’s EIV system are required to adopt and follow specific security procedures to ensure that all UIV data is protected in accordance with federal laws, regardless of the media on which the data is recorded (e.g., electronic, paper). These requirements, such as the requirement to complete the annual EIV security awareness training, are contained in the HUD-issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification (UIV) Data* and other security-related documents listed on HUD’s EIV website.HUD updates these requirements on a regular basis, so PHAs should check the website regularly for updated links to required trainings and any other changes.
* Including this information in a policy makes it clear to PHA staff, public housing residents, and the general public that there are additional procedural requirements related to the security and protection of data received from the EIV system.

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

Prior to utilizing HUD’s EIV system, the PHA will adopt and implement EIV security procedures in accordance with HUD requirements.

🞎 *Option 2: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**Criminal Records**

This section describes specific requirements relative to the PHA’s handling of criminal information, including sex offender registration information. **No policy decisions are required.**

**Medical/Disability Records**

This section explains specific requirements regarding the PHA’s handling of medical or disability related records. **No policy decisions are required.**

**Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking Records**

This topic is addressed in section 16-VII.E of the model ACOP. **No policy decisions are required here.**

PART VI: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL

**16-VI.A. REPORTING REQUIREMENTS [24 CFR 35.1130(e); Notice PIH 2017-13]**

The PHA has certain responsibilities relative to children with elevated blood lead levels that are living in public housing.

**☑ Decision Point: What type of notice will the PHA provide to the public health department when the PHA identifies a child as having an elevated blood lead level and how will the PHA report each known case to the HUD field office?**

Things to Consider

* The PHA must report the name and address of a child identified as having an elevated blood lead level to the public health department within five business days of being so notified by any other medical health care professional. This policy simply clarifies that the notice will be written. Providing the notice in writing protects the PHA from any claim that they did not properly report the information.
* Due to the serious nature of the reporting, the model policy states that the PHA will provide written notice to the HUD field office, and to HUD’s Office of Lead Hazard Control (OLHCHH), within five business days of receiving the information. This is shorter than the standard of 10 business days that is used throughout most of the ACOP.

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

The PHA will provide the public health department written notice of the name and address of any child identified as having an elevated blood lead level.

The PHA will provide written notice of each known case of a child with an EBLL to the HUD field office, and to HUD’s Office of Lead Hazard Control (OLHCHH), within five business days of receiving the information.

🞎 *Option 2: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

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 laws apply in conjunction with VAWA.

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

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and PHA policies in three areas: notification, documentation, and confidentiality. **No policy decisions are required.**

16-VII.B. DEFINITIONS [24 CFR 5.2003, FR Notice 8/6/13]

This section provides the statutory definitions of five key terms used in VAWA. No policy decisions are required.

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

This section explains what the PHA will do to implement the notification provision in VAWA. This provision requires PHAs to notify public housing tenants of their rights under VAWA, including their right to confidentiality.

Notification to Public

☑ **Decision Point: Will the PHA post information about VAWA on its Web site and in its offices? If so, what information will it post?**

Things to Consider

* Victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking cannot exercise their rights under VAWA if they don’t know about them. To ensure that information about VAWA is as widely and as readily available as possible, the model policy states that the PHA will post such information both on its website and in its offices. If the PHA does not have a website or cannot post the information there, it should edit the model policy accordingly.
* The model policy states that the PHA will have information about VAWA available in its offices to give to anyone who requests it. While this is not an explicit requirement of VAWA, it helps to ensure that anyone seeking information about the protections afforded by VAWA will be able to obtain it easily.
* The model policy includes four HUD-required forms used in connection with VAWA. These are found as Exhibits 16-11 through 16-4 at the end of the chapter.
  + Exhibit 16-1 is HUD’s sample Notice of Occupancy Rights under the Violence against Women Act, Form HUD-5380. The PHA must edit this sample form to include PHA-specific information and contact information for local domestic violence service providers.
  + Exhibit 16-2 is the HUD-required Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD‑5382
  + Exhibit 16-3 is an NMA-revised version of HUD’s sample Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5381. The PHA must revise this sample form to reflect PHA-specific information based upon housing types administered by the specific agency.
  + Exhibit 16-4 is the HUD-required Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5383.
* The policies under “Notification to Applicants and Tenants” fulfill the PHA’s notification responsibilities under VAWA. Therefore, the PHA may delete the model policy here if it so chooses.

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

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

A copy of 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 (Form HUD-5380, see Exhibit 16-1)

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

A copy of the PHA’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 Exhibit 16-1)

Contact information for local victim advocacy groups or service providers

🞎 *Option 2: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

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

VAWA requires PHAs to notify public housing applicants and tenants of their rights under this law, including their right to confidentiality and the limits thereof, when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits.

The PHA must distribute a notice of VAWA rights (form HUD-5380), along with the VAWA self-certification form (form HUD-5382) at each of these three junctures.

☑ **Decision Point: How and when will the PHA provide notification to applicants and tenants of their rights under VAWA? What will the notification contain?**

Things to Consider

* Public housing applicants and tenants who are victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking are protected under VAWA. Since many victims of abuse may not be aware of these protections, the law requires that applicants and tenants be notified about them.
* VAWA specifies that PHAs must inform applicants and tenants of their rights under the law 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 model policy also calls for the PHA to provide applicants with information about VAWA at the time they request an application for housing assistance and at each annual reexamination.
* The model policy includes a cross-reference to the model policy in section 8-I.B, which calls for the PHA to provide VAWA notice and discuss VAWA protections in lease orientation sessions. Depending on the policy decision the PHA makes in section 8-I.B, the cross-reference here may need to be removed.
* To ensure that applicants and tenants understand their rights under VAWA at the times they may need to exercise them, the model policy also calls for denial and termination notices to include information regarding the protections afforded under VAWA. If changes are made in the model policy here, they may also need to be made in the model policies in sections 3-III.G and 13-IV.F.
* The model ACOP includes as Exhibit 16-1 the HUD notice of occupancy rights under VAWA. Since the PHA will be fulfilling its notification obligation if it provides this notice to public housing applicants and tenants, the model policy assumes that the PHA will use this notice. The model policy further assumes that the PHA will include with the VAWA notice a copy of Form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, and Stalking. This is consistent with VAWA regulations.

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

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

The PHA will provide all applicants with information about VAWA at the time they request an application for housing assistance. The PHA will also include such information in all notices of denial of assistance (see section 3‑III.G).

The PHA will provide all tenants with information about VAWA at the time of admission (see section 8-I.B) and at annual reexamination. The PHA will also include such information in all lease termination notices (see section 13‑IV.F).

🞎 *Option 2: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

☑ **Decision Point: Will the PHA take any precautions when delivering VAWA information to a public housing tenant following an incident of domestic violence?**

Things to Consider

* The model policy follows cautionary guidance provided by HUD in Notice PIH 2017-08, which point out that sending VAWA information to a public housing tenant by mail following an incident of domestic violence may put the victim at risk.
* Unless given permission from the victim to do so, the PHA must not leave messages that contain confidential information or refer to VAWA.

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

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

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

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

🞎 *Option 2: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

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

This section explains the authority provided by VAWA to request documentation from an individual who asserts 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.

🗹 **Decision Point: What will the PHA’s request for documentation of domestic violence, dating violence, sexual assault, stalking, or human trafficking contain?**

Things to Consider

* Policies elsewhere in the model ACOP state that the PHA will generally request documentation of domestic violence, dating violence, sexual assault, stalking, or human trafficking. The policy here addresses the contents of the request, including the deadline for submitting documentation.
* The model policy reflects the statutory requirement that any request for documentation be in writing, and adopts the statutory minimum of 14 business days as the deadline for submitting documentation. The PHA has the discretion to allow more than 14 business days from the date the request is received.
* The model policy calls for the PHA’s request to describe the three forms of documentation acceptable under VAWA, to provide explicit submission instructions, and to explain the consequences for failure to meet the submission deadline. While such information is not required under VAWA, it will help to ensure the timely submission of appropriate documentation to the appropriate person.
* VAWA gives PHAs the discretion to extend the time allowed for submitting documentation. The model policy does not commit the PHA to exercising this discretion, but allows it the flexibility to do so. The PHA could choose not to offer an extension under any circumstances or could specify the circumstances under which it would approve an extension.
* For the protection of the PHA as well as the individual claiming protection under VAWA, the model policy specifies that any extension of the deadline for submitting documentation must be requested and granted in writing.
* The model policy specifies that an extension, if granted, will be for 10 business days. This is the standard time frame used throughout much of the model ACOP.
* HUD encourages the PHA to acknowledge receipt of documentation in a timely manner. The model policy uses 10 business days as the standard used throughout the ACOP.

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

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

Once the victim provides documentation, the PHA will acknowledge receipt of the documentation within 10 business days.

🞎 *Option 2: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

Conflicting Documentation [24 CFR 5.2007(e)]

🗹 **Decision Point: When two or more individuals from the same household submit conflicting certifications of domestic violence, how will the PHA determine which is the true victim?**

Things to Consider

* Although VAWA itself does not anticipate the possibility that two or more individuals from the same household might submit conflicting certifications accusing one another of domestic violence, the VAWA regulations do. In such cases—or when submitted documentation contains information that conflicts with existing information already available to the PHA, the regulations give PHAs the authority to request third-party documentation in addition to the certifications provided by the individuals. These are the only two situations under which the PHA may require third-party documentation.
* Given the possible consequences of individuals submitting conflicting documentation, if allegations prove to be false, the PHA may use this information as the basis for a denial of admission or termination of assistance.
* VAWA regulations also state that individuals have 30 calendar days to return third-party verification to the PHA once the PHA makes the request.
* Notice PIH 2017-08 further states that if PHA does not receive third-party documentation, and the PHA will terminate assistance as a result, the PHA must hold separate hearings for the tenants. While the notice does not mention applicants in this context, the model policy extends the same protections to applicants.
* Notice PIH 2017-08 encourages PHAs to provide contact information for local domestic violence agencies to help the victims plan for safety and/or provide contact information for local legal aid offices, which may be able to assist in providing appropriate referrals, obtaining restraining orders, and preparing for grievance hearings. The model policy adopts this guidance.
* The PHA may request third-party verification when submitted documentation conflicts with existing information. Examples of reliable information that may conflict with submitted documentation include surveillance footage, police reports, or other verifiable information. However, the PHA is prohibited from conducting further fact finding for the purpose of trying to verify the validity of an applicant or tenant’s victim status, such as conducting interviews with neighbors or employers to determine who the “real” victim is.
* The model policy simply states that the PHA will attempt to determine which is the true victim by exercising this authority and following any guidance that HUD issues on how such determinations should be made (see Notice PIH 2017-08).

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

If presented with conflicting certification documents from members of the same household, the PHA will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(e) and by following any HUD guidance on how such determinations should be made. When requesting third-party documents, the PHA will provide contact information for local domestic violence and legal aid offices. In such cases, applicants or tenants will be given 30 calendar days from the date of the request to provide such documentation.

If the PHA does not receive third-party documentation within the required timeframe (and any extensions) the PHA will deny VAWA protections and will notify the applicant or tenant in writing of the denial. If, as a result, the applicant or tenant is denied or terminated from the program, the PHA will hold separate hearings for the applicants or tenants.

🞎 *Option 2: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

Discretion to Require No Formal Documentation [24 CFR 5.2007(d)]

🗹 **Decision Point: What will the PHA do if and when it exercises its discretion not to require formal documentation from a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking?**

Things to Consider

* While the model ACOP assumes that the PHA will generally want to request formal documentation of domestic violence, dating violence, sexual assault, stalking, or human trafficking before providing benefits to an individual who claims to be a victim of such abuse, there may be occasions when the PHA determines that a statement by the victim or other corroborating evidence is sufficient.
* The model policy does not try to anticipate the conditions under which the PHA will exercise its discretion to provide benefits to a victim without formal documentation. However, it requires the PHA to document its acceptance of a victim’s statement or other corroborating evidence in the victim’s file, as recommended in FR Notice 11/16/16.
* HUD encourages the PHA to state whether a statement or other evidence will be accepted and to provide a definition of *other evidence* if it is used. In order to provide the broadest possible options, the model policy states that the PHA will accept a statement or other evidence and allows the victim to determine what other evidence may be appropriate.
* In Notice PIH 2017-08, HUD recommends documentation in a confidential manner when a verbal statement or other evidence is accepted.

🞎 *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

If the PHA 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 PHA will document acceptance of the statement or evidence in the individual’s file.

🞎 *Option 2: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**Failure to Provide Documentation [24 CFR 5.2007(c)]**

This section states the consequences for a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking who fails to provide documentation of abuse in response to a written request by a PHA. **No policy decisions are required.**

**16-VII.E. CONFIDENTIALITY [24 CFR 5.2007(b)(4)]**

**☑ Decision Point:** **If the PHA is required to disclose confidential information about a victim, will it inform the victim in advance?**

Things to Consider

* VAWA imposes strict confidentiality requirements on PHAs. However, it permits PHAs to disclose information about a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking if required either for an eviction proceeding or by applicable law.
* Domestic violence advocates encourage PHAs to provide advance notice to a victim whenever the PHAs are required to disclose confidential information about the victim. While this is not a VAWA requirement, it is a sound policy because it helps to protect victims from retaliation by perpetrators of domestic violence.
* The prohibition against entering VAWA information into shared databases does not preclude the PHA from entering this information into a database system used by the PHA that meets all requirements for securing sensitive personally identifiable information, as long as the requirements listed in the model policy and provided in 24 CFR 5.2007(c) are met (i.e., the victim consents to it in writing in a time-limited release).
  + *Option 1: Use the model ACOP language shown below. No changes to the model ACOP are needed.*

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

🞎 *Option 2: Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**FINALIZING THE DOCUMENT**

Take a final look at the changes you have made in this chapter of the ACOP.  
Have you:

(1) Added or subtracted any exhibits at the end of the chapter?  Yes  No.

(2) Added, subtracted or reordered any major sections (at the A, B, or C level?)  Yes  No

If you answered yes to either of these questions, you must adjust the chapter to match your changes.

**☑ Decision Point: Are any changes required to this chapter?**

No. No changes to the model policy are needed.

Yes. Edits only. Edit and insert PHA language as appropriate.

Yes. PHA changed the organization of the chapter. Adjust the chapter to reflect your changes **and** review the rest of the document to make sure that any references to section numbers are correct.

**☑ Decision Point: Are changes required in other chapters as a result of changes to this chapter?**

Check the “Things to Consider” under each decision point to identify if changes to the model policy will require changes to policies in other chapters of the ACOP.

No. Changes to other chapters are not necessary.

Yes. Changes to the following chapter]s are also required: