Table of Contents

CHAPTER 1 Multifamily Project-Based Rental Assistance Overview
Online Resources 1-1

Section 1 Learning Outcomes 1-1
Learning Outcomes 1-1

Section 2 Program Overview 1-2
HUD's Role 1-4
Performance-Based Contract Administrators (PBCA) and Contract Administrators (CA) 1-5
The MOR Process 1-6
NSPIRE Inspections 1-7
Management Agents 1-11

Section 3 Important References 1-12
Code of Federal Regulations (CFR) 1-12
HUD Handbooks 1-12
Housing Notices 1-16
Federal Register Notices 1-18

Section 4 The Rental Assistance Demonstration Program (RAD) 1-20
Common Housing Terms and Acronyms 1-27

Section 5 Chapter 1 Post Test 1-33

CHAPTER 2 Tenant Selection and Waiting List Management

Section 1 Learning Outcomes and Overview 2-1
Learning Outcomes 2-1

Section 2 Tenant Selection Plan (TSP) 2-2

Section 3 Preferences 2-6
Owner-Adopted Elderly/Disabled Preferences 2-8
Preference Verification 2-10

Section 4 Occupancy Standards 2-12

Section 5 Unit Transfers 2-15
Effective Dates 2-16
Transfer Considerations in Other programs 2-16

Section 6 Accepting Applications 2-18
Pre-Application vs. Full Application 2-18
Content of the Full Application 2-18

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Section 7 Managing the Waiting List 2-21
Preliminary Eligibility 2-21
Waiting List Creation 2-22
Opening and Closing the Waiting List 2-23
Updating the Waiting List 2-24
Waiting List Maintenance 2-24

Section 8 Applicant Selection 2-26
Income Targeting 2-26
Matching Family Characteristics with Available Units 2-27
Interviews 2-28

Section 9 Screening for Suitability 2-30
Mandatory Screening Requirements 2-30
Consistent Screening 2-35
Prohibited Screening Criteria 2-37
Violence against Women Act (VAWA) 2-38
Applicant Rejection 2-41
Removing and Reinstating Applicants 2-42
Record Destruction and Retention 2-43

Section 10 Electronic Signatures, Transmission, and Storage 2-44
Overview 2-44
Impacted Documents 2-44
E-signature Requirements 2-45
Electronic Transmission 2-45
File and Document Storage 2-47
Document Retention and Destruction 2-48
HUD Review Impact 2-49
Regulatory Restrictions: Notices 2-49
Accessibility of Electronic Media 2-50

Section 11 Affirmative Marketing 2-51
Advertising 2-52
Updating the AFHMP 2-52
Learning Activity 2-1: Selecting Applicants from the Waiting List 2-53

Section 12 Chapter 2 Post Test 2-56

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CHAPTER 3 Eligibility

Section 1 Learning Outcomes and Overview 3-1
Learning Outcomes 3-1

Section 2 Overview 3-2
Property Eligibility. . . . 3-2

Section 3 Restriction on Assistance to Noncitizens 3-4
Overview 3-4
Notification 3-4
Eligibility for Assistance 3-5
Family Categories 3-5
Verification. . . . 3-6

Section 4 Social Security Number Disclosure 3-8
Overview 3-8
Exempt Individuals 3-8
Timeframe for Disclosure 3-11
Documentation and Verification 3-12

Section 5 Income Eligibility. . . . 3-13
Applying Income Limits 3-14
Applying Income Limits 3-16
Household Members 3-16
Admission of Over-Income Applicants 3-17

Section 6 Students Status. . . . 3-20
Overview 3-20
Restrictions on Assistance 3-20
Verification. . . . 3-22
Learning Activity 3-1: Family Screening. . . . 3-23

Section 7 Family Composition 3-26
Overview 3-26
Live-in Aides 3-27
Remaining Family Members 3-28
Police Officers or Security Personnel 3-28
Sole Residence Restriction 3-29
Housing Choice Vouchers (HCV) 3-30

Section 8 Elderly and/or Disabled Property Requirements (HUD-Mandated) 3-31
Verifying Age. . . . 3-31
Verifying Disability Status. . . . 3-32
Disability in Section 8 Programs 3-32
Admitting Ineligible Households based on Elderly/Disability Requirements. . . . 3-35

Section 9 Chapter 3 Post Test 3-36

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CHAPTER 4 Income and Rent Calculation

Section 1 Learning Outcomes 4-1
Learning Outcomes 4-1

Section 2 Annual Income 4-2
Income of Various Household Members 4-3

Section 3 Earned Income 4-7
Seasonal Employment 4-7
Self-employment 4-8
Military Pay 4-9

Section 4 Income of Students 4-10
Educational Savings Accounts 4-10
Student Loans 4-10

Section 5 Periodic Payments 4-14
Lumps Sum Payments counted as Income 4-14
Applying the COLA 4-14
Retirement Accounts 4-15
Alimony and Child Support 4-15
Nonrecurring Income 4-16
Public Assistance 4-18
Public Assistance Income in As-paid Localities (“Welfare Rent”) 4-18

Section 6 Other Types of Income 4-20
Home-Based Care Payments for a Family Member with Disabilities 4-20
Training Programs 4-21
Publicly Assisted Programs 4-22
Civil Action Settlements 4-22
Plan for Achieving Self-Sufficiency (PASS) 4-22
Resident Service Stipends 4-22
Health and Medical Care Reimbursements 4-23
Holocaust Reparation payments 4-23
Refunds and Rebates for Property Taxes 4-23
Adoption Assistance Payments 4-23
Aid and Attendance for Veterans 4-23
Loan Proceeds 4-24
Baby Bond Accounts 4-24
Mismanagement of Assets Claims 4-24
Housing Gap Payments 4-24
Civil Rights Settlements and Judgments 4-25
Family Self Sufficiency account 4-25
Federally mandated Income Exclusions 4-26

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Section 7 Types of Assets 4-32
Real Property 4-32
Personal Property 4-33
Bank Accounts 4-35
Investment Accounts 4-36
Trusts 4-37
Jointly Owned Assets 4-39
Lump Sums 4-40
Federal tax Refunds or Refundable Tax Credits 4-40
Life Insurance Policies 4-42
Retirement Accounts 4-42
Other Asset Exclusions 4-43

Section 8 Calculating Income from Assets 4-44
Net Family Assets 4-44
Income from Assets 4-45
Net Family Assets of at or Below the HUD-Determined Threshold 4-46
Net Family Assets Exceeding the HUD-Determined Threshold 4-47

Section 9 Assets Disposed of for Less than Fair Market Value 4-48

Section 10 Adjusted Income 4-50
Elderly/Disabled Allowance 4-50
Dependent Allowance 4-50
Child Care Expenses 4-51
Exemption to Continue the Child Care Deduction 4-52
Disability Assistance Expenses 4-53
Health and Medical Care Expenses 4-54
Hardship Exemptions 4-55
Requirements for Hardships 4-59

Section 11 Consent Forms 4-60
Authorization for the Release of Information (Form HUD-9887) 4-60

Section 12 Streamlined Verification Options 4-62
Means-Tested Federal Assistance Programs 4-62
Fixed Sources of Income 4-64

Section 13 Verification Hierarchy 4-66
Third-Party Verification 4-66
Upfront Income Verification (UIV) using EIV 4-66
UIV Using Non-EIV Sources 4-67
Written Third-Party from the Source or EIV + Self-Certification 4-68
Verifying Excluded Income 4-71

Section 14 Calculating Income 4-72
Income at Move-in and Interim 4-72
Income at Annual Recertification 4-72

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Section 15 Rent Calculation 4-74
Definitions 4-74
Total Tenant Payment (TTP) 4-75
Tenant Rent 4-76
Housing Assistance Payment (HAP) 4-77
Minimum Rent Hardship Exemptions 4-77
Section 16 Chapter 4 Post Test 4-83

CHAPTER 5 Leasing
Section 1 Learning Outcomes and Overview 5-1
Learning Outcomes 5-1
Section 2 Move-in Inspections 5-2
Lease Briefing Appointment 5-2
Section 3 General Lease Requirements 5-4
Lease Terms 5-6
Required Lease Attachments 5-7
Lease Amendments for Rent Changes 5-8
Lease Modification 5-8
Prohibited Provisions 5-9
Section 4 House Rules 5-11
Absence/Abandonment 5-12
Conducting Incidental Business from the Unit 5-13
Section 5 Violence against Women Act Lease Addendum 5-14
Section 6 Lead-Based Paint Disclosure Requirements 5-17
Section 7 Pet Rules in Elderly/Disabled Developments 5-20
Pets in Elderly/Disabled Housing 5-21
Pet Rules and the Lease 5-23
Changes to Pet Rules 5-24
Assistance Animals 5-25
Section 8 Security Deposits 5-27
Interest 5-29
Refunds 5-30
Transfers 5-30
Section 9 Other Charges 5-31
Application Fees 5-31
Meal Programs 5-31
Late Fees 5-31
Pet Deposit 5-32
Other Charges 5-33
Section 10 Chapter 5 Post Test 5-35

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CHAPTER 6 Annual and Interim Recertifications

Section 1 Learning Outcomes and Overview 6-1
Learning Outcomes 6-1

Section 2 Overview 6-2
Recertification Anniversary Dates 6-3

Section 3 Annual Recertification Notification 6-5
Initial Notice 6-5
First Reminder Notice 6-5
Second Reminder Notice 6-6
Third Reminder Notice 6-7

Section 4 Annual Recertification Procedures and Processing 6-8
Criminal Background Checks 6-8

Section 5 Effective Dates of Annual Recertifications 6-9
Timely Processing 6-9
Late Processing Due to Owner Error 6-9
Late Response by Resident 6-10
Resident Response after the Recertification Anniversary Date 6-11
Effective Dates in Other Programs 6-12
Extenuating Circumstances 6-13

Section 6 Interim Recertifications 6-15
Non-Interim Reexam Transactions 6-15
Conducting Interim Recertifications 6-16
Changes in Family Composition 6-17
Changes affecting Income or Expenses 6-18
Family Reporting Requirements 6-24
Resident Failure to Report 6-24
Effective Dates 6-25

Section 7 Gross Rent Changes 6-26

Section 8 Chapter 6 Post Test 6-28

CHAPTER 7 Terminations

Section 1 Learning Outcomes and Overview 7-1
Learning Outcomes 7-1

Section 2 Overview 7-2

Section 3 Termination of Assistance 7-3
Asset Limitation 7-4
Notification Requirements 7-5
Reinstatement of Assistance 7-6

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Section 4 Termination of Tenancy 7-7
Termination by Owner 7-7
Material non-compliance with lease 7-7
Repeated Minor Violations 7-8
Non-Payment of Rent. 7-8
Nondisclosure/Failure to Provide Verification of SSN 7-9
Drug and Alcohol Abuse or Other Criminal Activity 7-10
Failure to Comply with Local or State Landlord/Tenant Law 7-12
Other Good Cause 7-12
Criminal Background Checks 7-13
Notification 7-14

Section 5 Discrepancies and Errors 7-18
Resident Meeting 7-19
Fraud 7-20
Documentation of Fraud 7-20
EIV Discrepancies 7-21

Section 6 Reimbursement of HAP, Overpaid Rent, and Repayment Agreements (RPA) 7-22
Resident Reimbursement to Owner 7-22
Resident Repayment Options. 7-23
Owner Reimbursement to HUD. 7-25
De Minimis Errors 7-26

Section 7 Chapter 7 Post Test 7-28

CHAPTER 8 Enterprise Income Verification (EIV)

Section 1 Learning Outcomes 8-1
Learning Outcomes 8-1

Section 2 Overview 8-2
Why EIV? 8-4

Section 3 Data Sources 8-14

Section 4 General Administration 8-16
EIV Master File 8-16
Authorized Users 8-17
EIV Security Policy 8-19
Penalties for Failure to Comply 8-20

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Section 5 Using EIV Reports 8-21
EIV Report Schedule 8-21
Failed EIV Pre-Screening Report 8-22
Failed Verification Reports 8-23
Summary Report 8-24
Deceased Tenants Report 8-24
New Hires Report 8-25
Multiple Subsidy Report 8-27
Income Reports 8-28
Summary Report 8-28
Income Report 8-29
Income Discrepancy Report 8-33

Section 6 Disclosure and Record Keeping 8-36
Disclosure of EIV Data 8-36
Physical Safeguards 8-37
Record Keeping 8-38
Disposal of EIV Information 8-38

Section 7 Chapter 8 Post Test 8-39

CHAPTER 9 Contract Renewal, Utility Allowances, and Rent Adjustments

Section 1 Learning Outcomes 9-1
Learning Outcomes 9-1

Section 2 Contract Renewal Overview 9-2
History 9-2
Overview 9-2
Contract Terms 9-2
Renewal Option Determination 9-3

Section 3 Timing and Documentation 9-5

Section 4 Renewal Options 9-7
Option One: Mark-up-to-Market (MUTM) 9-7
Option Two: Contract Renewals for Other Projects with Current Rents at or Below Comparable Market Rents 9-9
Option Three: Referral to Recap 9-9
Option Four: Renewal of Projects Exempt from or not Eligible for Debt Restructuring 9-11
Option Five: Renewal of Portfolio Reengineering Demonstration or Preservation Projects 9-12
Option Six: Opt-Outs 9-13

Section 5 Rent Comparability Study (RCS) 9-14

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Section 6 Utility Allowance Analysis 9-17
Sample Size Methodology 9-17
Conducting the UAA 9-19
Factor-Based Utility Analysis 9-20
Utility Reimbursements 9-20
UA Changes Outside of the Contract Rent Adjustment Schedule 9-21

Section 7 Rent Adjustments 9-22

Section 8 Chapter 9 Post Test 9-24

CHAPTER 10 TRACS, Vouchers, and Special Claims

Section 1 Learning Outcomes and Overview 10-1
Learning Outcomes 10-1

Section 2 Tenant Rental Assistance Certification System (TRACS) 10-2
TRACS Information Sources 10-4
Monthly Activity Transmission (MAT) Files 10-6
Certification Tips for Successful Transmission 10-6
Submission Timeline 10-10

Section 3 Vouchers 10-11
Voucher Billing 10-12
The 50059 and 50059-A 10-16
Repayment Agreements 10-17
Family Self-Sufficiency (FSS) for Multifamily Housing 10-21

Section 4 Special Claims 10-26
Eligibility 10-26
Vacancies After Rent-Up 10-27
Unpaid Rent and Damage Claims 10-28
Claim Submission and Review Process 10-31

Section 5 Chapter 10 Post Test 10-36

CHAPTER 11 Post-Test Answer Keys

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CHAPTER 1 Multifamily Project-Based Rental Assistance Overview

ONLINE RESOURCES

Additional resources and references for this course are available at http://NMAreferences.com. Click the specific program link at the top of the web page to jump directly to the references you wish to access. No login information is required.

Section 1 Learning Outcomes

LEARNING OUTCOMES

Upon completion of this chapter, you should be able to:

- Describe and explain the basics of the project-based Section 8 program
- Read and interpret HUD notices, regulations, and other resources with a focus on critical information
- Review the basics of the HOTMA regulations
- Examine the basic components of the PBRA program under RAD

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Section 2 Program Overview

The Section 8 project-based rental assistance program falls under HUD's Office of Multifamily Housing. It was authorized by Congress in 1974 to provide rental subsidies for eligible resident families living in newly constructed ("New Construction"), rehabilitated ("Substantial Rehabilitation"), and existing rental and cooperative properties. HUD provides Section 8 rental assistance to certain mortgaged properties through the execution of a Housing Assistance Payment (HAP) contract. All rental assistance at these properties is project-based. This means subsidy is committed by HUD to specific assisted units for a fixed period of time based on the HAP contract and mortgage signed between the owner and HUD. This type of assistance differs from the tenant-based Section 8 program (referred to as the housing choice voucher (HCV) program) where subsidy is tied to the family and is portable. Most HAP contracts were initially signed for 20-40 years. At the end of the term, HAP contracts may be renewed, typically in one, five, or 20-year increments, or project owners may opt-out of the contracts.

The program is broken down into various program and loan types that fit the needs of various populations as well as maintain a large affordable housing stock across the country. Section 8 project-based assistance program includes:

- New Construction
- State Agency Financed (generally New Construction or Substantial Rehabilitation projects)
- Substantial Rehabilitation
- Section 202 Projects with Section 8 Assistance (Section 202/8)
- Rural Housing Section 515 Projects with Section 8 Assistance (RHS Section 515/8)
- Loan Management Set-Aside (LMSA)
- Property Disposition Set-Aside (PDSA)

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In 1983 Congress repealed the statutory authority for the New Construction and Substantial Rehabilitation Programs. As a result, no new projects may be completed or contracted under the program. However, current owners are able to renew their existing HAP contracts in specific increments through a contract renewal process as specified by HUD. The one exception to this is that new HAP contracts are being signed under HUD's Rental Assistance Demonstration (RAD) program. Under the first component of the RAD program, projects funded under the public housing program may convert assistance to long-term project-based Section 8 rental assistance contracts under the PBRA program.

The 2012 Appropriations Act authorized up to 185,000 units to convert assistance through RAD, the 2017 Appropriations Act raised that cap to 225,000 units, and the 2018 Appropriations Act raised it again to 455,000 units. The 2018 Appropriations Act also added a new class of properties to be eligible for conversion under RAD, which includes Section 202 Project Rental Assistance Contracts (PRACS) and 202 PRACS. This class covers over 120,000 units across 2,800 properties serving the very low-income elderly.

The property's HAP contract will specify how many units will receive Section 8 rental assistance. HUD provides rental assistance to the owner for each subsidized unit in the project. Rental assistance is the difference between the HUD-approved contract rent for the unit and the tenant's income-based rent contribution. Contract rents must be comparable to unsubsidized projects in the area where the Section 8 property is located, to the extent possible. The tenant rent contribution is typically the greater of 30 percent of the family's monthly adjusted income, 10 percent of the family's monthly gross income, or a minimum rent of $25.

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HUD's Role

Congress is responsible for passing annual appropriations and authorization legislation for national housing programs. Housing legislation is signed by the president, and funds are allocated and agreed upon by House and Senate subcommittees and approved by both houses. The Office of Management and Budget (OMB) apportions the funds made available by Congress and reviews HUD regulations and operations. HUD headquarters in Washington, D.C. interprets the housing legislation enacted by Congress. HUD headquarters' primary role is in writing, establishing, and updating program regulations to implement federal laws. HUD contracts with public housing agencies (PHAs) in the public sector and owners in the private sector to actually build, manage, and maintain properties and administer rent subsidy programs. The Section 8 Project Based Rental Assistance (PBRA) program falls under the Multifamily Housing Programs office, which also provides financing subsidies, direct loans, and capital advances, in addition to project-based rental subsidies.

HUD program offices oversee the various assisted housing programs. Their primary role is making payments and monitoring program compliance. Each Multifamily property has a HUD Account Executive (AE) that will assist with answering questions and resolving issues, as well as potentially completing contract renewals and other necessary contractual agreements, and may perform management and occupancy reviews (MORs).

A listing of HUD's field offices may be found on HUD's website: www.hud.gov/program_offices/field_policy_mgt/localoffices.

Owners typically do not work directly with the HUD AE. Rather, a Performance-Based Contract Administrator (PBCA/CA) or traditional Contract Administrator (CA) will provide direct oversight in many cases.

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PERFORMANCE-BASED CONTRACT ADMINISTRATORS (PBCA) AND CONTRACT ADMINISTRATORS (CA)

While HUD ultimately has the primary responsibility for contract administration for multifamily properties, Contract Administrators (CA) and Performance Based Contract Administrators (PBCAs) monitor program compliance through a contractual relationship with HUD. PBCAs/CAs are generally housing agencies that contract with HUD to oversee the multifamily programs. Entities that perform this function include:

- State financing agencies
- Local housing authorities
- Other agencies specializing in this type of work

There are two types of contract administrators that assist HUD in performing contract administration functions:

- **Traditional Contract Administrators (CAs)**: These Contract Administrators have been used for over 30 years and have annual contributions contracts (ACCs) with HUD. Under their ACCs, traditional contract administrators are responsible for asset management functions in addition to HAP contract compliance and monitoring functions. They are paid a fee by the owner for their services.
- **Performance-Based Contract Administrators (PBCAs)**: The use of PBCAs began as an initiative in 2000. Under a performance-based ACC, the scope of responsibilities of a contract administrator is more limited than that of a traditional contact administrator. A PBCA's responsibilities focus on the day-to-day monitoring and servicing of Section 8 HAP contracts. PBCAs are generally required to administer contracts on a statewide basis and have strict performance and reporting requirements as outlined in their ACCs.

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PBCA/CAs are tasked with two different functions; program compliance and asset management, although the asset management functions for CAs differ from the asset management functions for PBCAs.

Monitoring program compliance for both PBCA/CAs includes:

- Ensuring assigned properties are serving eligible families at the correct level of assistance
  - The management and occupancy review (MOR) evaluates the owner's operating policies, procedures, and practices related to compliance with the HAP contract. The PBCA/CA assigns a score based on the results of the MOR.
- Managing contract renewals and annual utility allowance analysis/rent increases
- Processing monthly TRACS and voucher submissions for assigned properties

The asset management functions for both PBCA/CAs includes monitoring:

- The physical health of properties
  - This includes review and follow-up of all REAC inspection findings

HUD has the following additional asset management function:

- The financial health of properties
  - This includes annual review of submitted financial information and property budget

THE MOR PROCESS

The MOR process is divided into two basic parts, the desk review and the on-site review.

For the desk review, HUD or the CA will request a list of major policies and other documents, such as the property's tenant selection plan (TSP), EIV policies and procedures, etc., as listed on form HUD- 9834, Addendum C. These should be sent to HUD or the CA approximately two weeks prior to the scheduled date of the MOR, so that the auditor has time to review the documents thoroughly.

During the on-site review, the auditor will conduct an interview with the owner or a designated staff member using the form HUD-9834 questionnaire. The 9834 is 48 pages of questions for the owner or agent, and includes the Addendum A file review checklist, the Addendum B fair housing data collection forms, Addendum C, which lists the documents to be provided in the desk review, and Addendum D, which collects sex offender data for the property.

The auditor will audit 10 percent or more random current tenant files, a sampling of move-out files, and a sampling of rejected applications. While on site, the auditor will follow up on the property's most recent REAC inspection, to ensure deficiencies have been corrected, as certified by the owner.

NSPIRE Inspections

The National Standards for the Physical Inspection of Real Estate NSPIRE) is a new physical inspection model to inspect HUD-assisted housing that was developed by HUD's Real Estate Assessment Center (REAC). NSPIRE replaced Uniform Physical Condition Standards (UPCS) as the standard used to inspect all Multifamily Housing units on October 1, 2023. NSPIRE's mission is to ensure that all residents live in safe, habitable dwellings and that the items and components located inside the building, outside the building, and within the units of HUD housing must be functionally adequate, operable, and free of health and safety hazards. The goal is to align housing quality expectations across HUD programs, prioritize health and safety of residents, with less focus on appearance and increased emphasis on the unit, and modernize HUD's inspection process, which will have the effect of decreasing the administrative burden on owners, streamlining the appeal process in multifamily housing.

The MOR Process

For the file review portion of the review, the owner should ensure the files are organized, properly maintained, and easily audited. The files must contain all HUD-required documentation and be kept physically secure.

The owner should be prepared to answer questions regarding property security, inspections, maintenance, file access and security, tenant/management relations, and any general management practices. The best practice is for the owner to review the HUD-9834 questionnaire, and have answers prepared in advance.

The owner should review files in advance to ensure all correct and current forms are being used, properly signed and dated, that owner-created documents include all HUD-required information, and that the owner's policies and procedures are followed consistently. The owner should also review the files to ensure all HUD regulations and documentation requirements are met, in accordance with the HUD Handbook 4350.3, REV-1, Change 4, and subsequent H Notices.

The on-site review will include observation of the following categories, per the 9834 guidelines:

- General appearance and security
- Follow-up monitoring of project inspections
- Maintenance and standard operating procedures
- Financial management/procurement
- Leasing and occupancy
- Tenant/management relations
- General management practices

The tenant files must contain the following documentation, properly executed by all required parties, including, but not limited to:

- Original lease, certification documentation, application, and MI inspection
- Race and ethnic data form (for all household members)
- Form HUD-92006 (for all adult household members)
- Citizenship status documentation:
  - Owner's Notice to Family (Exhibit 3-3)
  - Family Summary Sheet (Exhibit 3-4)
  - Citizenship Declaration (Exhibit 3-5)
  - Verification Consent Form (Exhibit 3-6)
  - Owner's Summary of Family (Exhibit 3-7)

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- 9887/9887As and owner-created verification consent forms
- Screening verifications
- Acknowledgment that applicant/tenant received:
  - HUD-9887 Fact Sheet (only at move-in MI)
  - Lead-Based Paint Disclosure (if applicable, only at MI)
- Resident Rights and Responsibilities Brochure (at MI and AR)
- *EIV & You* Brochure (at MI and AR)
- Fact Sheet How Your Rent is Determined (at MI and AR)
- VAWA Notice of Occupancy Rights (Form HUD-5380)
- VAWA Certification (Form HUD-5382)
  - At application
  - When served a notice of denial of application or assistance
  - When served a notice of termination of assistance or eviction

We will discuss all of the documentation requirements in more detail in later chapters.

After the on-site review, within 30 days, HUD or the CA will issue an MOR score of Superior, Above Average, Satisfactory, Below Average, or Unsatisfactory. Owners may appeal a score of Below Average or Unsatisfactory within 30 days of the score issuance. A Satisfactory MOR cannot be appealed.

RAD PBRA: The MOR Process

In accordance with 24 CFR Part 880.612, a management and occupancy review (MOR) must be conducted at the project to ensure the owner is in compliance with the HAP Contract and determine whether the assisted units are in decent, safe, and sanitary condition. In accordance with existing Multifamily guidance, a full MOR should be conducted within six months of the effective date of the HAP contract, subject to available funding. If funding is not available, the Multifamily Regional Center/Satellite Office will conduct a limited MOR (commonly termed a “desk review”).

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MOR Chart

As of the effective date of this Final Rule, Contract Administrators will establish MOR schedules as laid out in the table below, subject to variation on a case-by-case basis:

Previous MOR:	Unsatisfactory	Below Average	Satisfactory	Above Average	Superior
	Next MOR must be conducted within…				
Risk Classification: Troubled	12 months of previous MOR	12 months of previous MOR	12 months of previous MOR	12 months of previous MOR	12 months of previous MOR
Risk Classification: Potentially Troubled	12 months of previous MOR	12 months of previous MOR	12 months of previous MOR	12 months of previous MOR	12 months of previous MOR
Risk Classification: Not Troubled	12 months of previous MOR	12 months of previous MOR	24 months of previous MOR	36 months of previous MOR	36 months of previous MOR

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MANAGEMENT AGENTS

HUD Handbook 4381.5 REV-2

The owner must seek out and select a management agent, subject to HUD approval. There are four types of management agents:

- Owner/manager
  - Owner and management agent are the same business entity
  - Known as "self-management"
- Identity of interest (IOI) management agent
  - An individual or entity that provides management services to the project has a relationship with the project owner that is such that the selection of the management agent and determination of the management fee will not be determined through an arms-length transaction
- Independent fee management agent
  - A management company or individual that has no identity of interest relationship with the owner and no financial interest or involvement with the project other than earning a fee for providing management services
- Project administrator
  - An individual who directs the day-to-day activities of a project designed for elderly or disabled residents and who reports to the Board of Directors
  - Generally an employee of the project rather than a contractor
  - Receives a salary rather than a management fee

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Section 3 Important References

CODE OF FEDERAL REGULATIONS (CFR)

The Section 8 Project-Based Rental Assistance Program is governed by the following parts under Title 24 of the *Code of Federal Regulations* (CFR):

- Part 1: Title VI of the Civil Rights Act of 1964
- Part 5: General Program Requirements
- Part 8: Nondiscrimination
- Parts 100 and 108: Fair Housing Act (Title VIII of the Civil Rights Act of 1968)
- Part 146: Age Discrimination Act of 1975
- Part 245: Tenant Participation Regulations
- Part 880: New Construction
- Part 881: Substantial Rehabilitation
- Part 883: State Agency Financed
- Part 884: RHS Section 515/8
- Part 891: Section 202/8 and PAC/PRAC

HUD HANDBOOKS

The **HUD Handbook 4350.3 REV-1 CHG-4, *Occupancy Requirements of Multifamily Housing Programs*** provides the rules governing eligibility and occupancy requirements and procedures in HUD-subsidized multifamily housing programs. It contains HUD interpretations of mandatory rules and regulations as well as advisory guidance. The handbook applies to:

- Section 221(d)(3) Below-Market Interest Rate (Section 221(d)(3) BMIR)
- Section 236
- Rental Assistance Payment (RAP)
- Rent Supplement
- Section 8 Project-Based Assistance
- New Construction

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- State Agency Financed (generally are New Construction or Substantial Rehabilitation projects)
- Substantial Rehabilitation
- Section 202 Projects with Section 8 Assistance (Section 202/8)
- Rural Housing Section 515 Projects with Section 8 Assistance (RHS Section 515/8)
- Loan Management Set-Aside (LMSA)
- Property Disposition Set-Aside (PDSA)
- Section 202 with 162 Assistance - Project Assistance Contracts (Section 202 PACs)
- Section 202 with Project Rental Assistance Contracts (Section 202 PRACs)
- Section 202 without Assistance (Income Limits Only)
- Section 811 with Project Rental Assistance Contracts (Section 811 PRACs)

Not all requirements apply to all properties or residents. Furthermore, some properties are assisted under multiple programs and are subject to multiple sets of requirements. Assisted properties may also be subject to federal, state, or local laws, some of which may conflict with HUD requirements. It is wise for each owner to carefully read all contracts and loan agreements applicable to the property and to seek guidance from the local HUD Field Office or their CA/PBCA when questions arise.

Since laws governing HUD-assisted multifamily housing change frequently, HUD issues changes to handbooks from time to time. When changes are released, they are accompanied by a transmittal letter that explains the content of the change and when it is effective. Occasionally, HUD will issue a revision and will replace an entire handbook. This occurred in 2003 when the 4350.3 had a major revision and is referred to as revision one (REV-1). The most recent change to the 4350.3 was issued in August 2013 and revised in November of 2013. This is referred to as Change 4. Thus, the current version of the handbook is now referred to as *HUD Handbook 4350.3, REV-1, CHG-4*.

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HOTMA regulations are being added to the 4350.3. When the newly revised handbook is released, the following chapters will be updated for HOTMA:

- Chapter 3. Eligibility for Assistance and Occupancy
- Chapter 4. Waiting List and Tenant Selection
- Chapter 5. Determining Income and Calculating Rent
- Chapter 7. Recertification, Unit Transfers, and Gross Rent Changes
- Chapter 9. Enterprise Income Verification (EIV)
- Glossary

The handbook is organized by program function. Each chapter contains a list of relevant citations to applicable laws and describes the key requirements and procedures relevant to that topic. The handbook provides examples, figures, exhibits, appendices and a glossary, which contains definitions of key technical terms used in the 4350.3. The handbook has the following chapters:

- Chapter 1: Introduction
- Chapter 2: Civil Rights and Nondiscrimination
- Chapter 3: Eligibility for Assistance and Occupancy
- Chapter 4: Waiting List and Tenant Selection
- Chapter 5: Determining Income and Calculating Rent
- Chapter 6: Lease Requirements and Leasing Activities
- Chapter 7: Recertification, Unit Transfers, and Gross Rent Changes
- Chapter 8: Termination
- Chapter 9: Enterprise Income Verification (EIV)

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As this handbook is over 900 pages long, finding the answers you are looking for can be cumbersome. The addition of the electronic version of the handbook has made finding things easier than ever. It is a best practice to keep a link to the electronic version of the handbook on your desktop favorites. This will enable you to quickly reference the materials, choose your chapter, and do keyword searches for specific items such as interims, terminations, etc. Also, highlighting and tabbing specific passages in the paper version of the manual will make for easier reference in the future.

Additional HUD handbooks include:

- **HUD Handbook 4350.1,** ***Multifamily Asset Management and Project Servicing***: Provides general guidance for most of the tasks associated with HUD's involvement in the affairs of multifamily projects.
- **HUD Handbook 4381.5,** ***The Management Agent Handbook***: Provides guidance regarding most aspects of HUD's relationship and interaction with owners and management agents of HUD-insured and HUD-assisted properties. It also includes guidance regarding the involvement of residents and their representative organizations in key decisions concerning their projects and the importance of supporting resident efforts to organize.
- **HUD Handbook 8025.1,** ***Implementing Affirmative Fair Housing Marketing Requirements for Multifamily Housing***: Provides guidance for the implementation of the AFHMP Regulations and the AFHMP requirements in HUD's programs.

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HOUSING NOTICES

HUD headquarters publishes Multifamily Housing Notices (referred to as H-Notices) to provide guidance, extensions, instructions, clarifications, announcements and other policy information to owner/agents. These notices provide guidance and updated regulations relating to multifamily housing. The Office of Multifamily Housing Programs is responsible for publishing the notices, which may be accessed online through HUDClips under the Housing section. Each notice is considered mandatory while it is current and notices are often extended. After expiration, the notice is considered discretionary and may continue to be followed as long as no new guidance has been issued to supersede the previous notice.

You can find links to the following important references at www.hud.gov:

- HUD Notice H 2023-10, HOTMA Implementation
- Searchable HUD Handbook 4350.3
- Student Rule FAQs
- RHIIP Listserv
- Memorandum Regarding Homeless Preference Fees
- The Special Claims Processing Guide
- The Section 8 Contract Renewal Guide
- Notice H 2015-04 - Utility Allowance Methodology
- Notice H 2016-08 - Family Self Sufficiency Program in Multifamily
- RAD Supplemental Notice 4C (Notice H 2025-01 PIH 2025-03 (HA))
- RAD Supplemental Notice 4B (Notice H2023-08 PIH 2023-19 (HA))
- RAD Notice Revision 4 as amended by Supplemental 4B and 4C
- Notice H 2017-03, REV-3 - RAD Final Implementation Notice
  - Applicable to projects that closed on or after January 19, 2017
- PIH 2012-32 REV-2
  - Applicable to projects that closed prior to January 19, 2017

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- Notice H 2019-09 - RAD Final Implementation Notice
- RAD Quick Reference Guide to Multifamily Housing Requirements
- RAD Welcome Guide for New Awardees
- Notice H 2016-17 Fair Housing, Civil Rights and Relocation Requirements for RAD
- 24 CFR Part 5, Subpart L - VAWA Regulations
- The following H Notices, CFR Notices are superseded and replaced by Notice H 2023-10:
  - *Exclusion from Annual Income of Temporary Employment from the U.S. Census Bureau* (H 2020-06)
  - *Passbook Savings Rate Effective February 1, 2016* (H 2016-01)
  - *Amendment to the Definition of Tuition* (H 2015-12)
- The following H Notices, CFR References, and 4350.3 chapters are partially rescinded by Notice 2023-10:
  - *Streamlining Administrative Regulations for Multifamily Housing Programs* (H 2016-09)
    - "24 CFR 5.216 - Verification of Social Security Numbers" (Section IV). This section of the notice states that an interim reexamination is required to add or update a household member's Social Security Number (SSN).
    - "24 CFR 5.609 - Definition Change - Exclusion of mandatory education fees from income" (Section VI). This section of the notice references the outdated income exclusion in 24 CFR § 5.609(b)(9).
  - *Section 811 Project Rental Assistance (PRA) Occupancy Interim Notice* (H 2013-24)
    - "Annual Recertification" (Section IV.F). This section of the notice states that MFH Owners must conduct interim reexaminations as described in HUD Handbook 4350.3 REV-1, Chapter 7.

- *Enterprise Income Verification (EIV) System* (H 2013-06)
  - "Using EIV Reports" (Section VII). This section of the notice states that MFH Owners are required to use EIV Income Reports as a third-party source to verify a tenant's employment and income information during interim reexaminations.
- "Use of EIV Reports" (Attachment 6). This attachment to the notice states that the use of EIV Reports (Income Report, Income Discrepancy Report, and Summary Report) is mandatory at interim reexaminations.

FEDERAL REGISTER NOTICES

HUD headquarters writes and publishes regulations in the Federal Register to further enact and promulgate laws passed by Congress. Notices may be accessed online on the Federal Register site. Federal Register notices are the mechanism through which new regulations are added to the Code of Federal Regulations as well as the method used to update, amend, or remove existing regulations as necessary. The typical cycle of a Federal Register notice may include HUD issuing a proposed rule to solicit public input and feedback, amending the rule in accordance with public comments, and then, sometimes after several revisions, publishing a final rule, although this is not always the case.

Rules issued in the Federal Register are organized as follows:

- List of regulations affected
- Subject
- Rule status
  - Interim rules
  - Proposed rules are for comment only
  - Final rules must be implemented by the effective date listed in the notice
- Summary

- Date
  - Implementation date for final rules
  - Comments due date for proposed rules
- Contact person for comments
- Preamble
  - HUD publishes its response to comments from the public in the preamble of final rules
- Text of new or revised regulations

MULTIFAMILY FSS INFORMATION

On May 12, 2017, HUD published the Family Self-Sufficiency Program Guidebook for Owners of Project-Based Section 8 Developments, which contains an overview of the FSS program for O/As as well as outlining the steps O/As need to establish and operate an FSS program.

On May 17, 2022, HUD published a final rule revising existing FSS regulations at 24 CFR Part 984 and adding Part 887 to account for Multifamily FSS.

HUD has also created a new Multifamily FSS page on HUD Exchange, which provides owners with comprehensive information on the Multifamily FSS program, including recorded webinars and applicable guidance materials.

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Section 4 The Rental Assistance Demonstration Program (RAD)

The capital needs backlog in Public Housing (PH) is estimated to be $115 billion to repair PH units that house over two million residents. Given inflation, little financial improvement is expected in the near future. At the same time, other HUD affordable housing programs were expiring that assisted families in privately owned properties with HUD-insured mortgages. When the contracts end, assisted families are eligible to receive tenant protection vouchers to remain at the property or move. Since most of the properties are 20 to 40 years old, renovation and repairs are essential. To deal with these crises, in 2012 HUD launched the Rental Assistance Demonstration program, better known as RAD.

The purpose of the Rental Assistance Demonstration (RAD) program is to assess the effectiveness of converting public housing, moderate rehabilitation properties, and units under the rent supplement and rental assistance payments programs to long-term, project-based Section 8 rental assistance.

Under the first component, a PHA with public housing units may submit an application to HUD to convert some or all of their public housing units to long-term project-based Section 8 HAP contracts under either:

- Project-based rental assistance (PBRA) under the Office of Multifamily Housing
- Project-based vouchers (PBVs) under the Office of Public and Indian Housing (PIH)

Under RAD PBRA, rental assistance is provided to PHAs through the HAP contract. The initial terms of the contracts are for a term of 20 years with mandatory renewals thereafter. RAD PBRA projects are treated as Pre-1981 Act Projects. Any future changes in HUD requirements that are inconsistent with a RAD PBRA HAP contract are not applicable.

Some rules for the standard PBRA program are different or do not apply to RAD PBRA. In particular, existing in-place tenants at the time of conversion from public housing to PBRA often follow different requirements. As such, owners of RAD PBRA properties should develop a system for identifying these households.

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For public housing conversion to PBRA under RAD, regulations governing the program are found at 24 CFR Part 880, as amended for RAD requirements in Notice H 2019-09. Future changes to Part 880 apply to RAD PBRA as long as they are not provisions that have been stricken by HUD. Other important PBRA RAD references are the *RAD Quick Reference Guide to Multifamily Housing Requirements* (revised 11/23).

RAD Notice Timeline

PIH 2012-32 — Effective 7/26/12

PIH 2012-32 REV-1 — Effective 7/2/13

PIH 2012-32 REV-2 — For projects that closed on or after 6/15/15 through 1/12/17

H 2017-03 REV-3 — For projects that closed on or after 1/12/17 through 9/4/19

H 2018-05 — Effective 7/2/18 (amended REV-2 and REV-3)

H 2019-09 RAD REV-4 (as amened by RAD Supplemental Notice 4B) - Final Implementation — For projects closing on or after 9/5/19

H 2023-08 — Effective 7/27/23, Supplemental Notice 4B

H 2025-01 - Effective 1/16/25, RAD Supplemental Notice 4C

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HUD has published four Rental Assistance Demonstration (RAD) notices that expand the tools participants have to preserve and recapitalize properties:

- **Rental Assistance Demonstration (RAD) Policy Quick Reference Guide to Multifamily Housing (PBRA) Requirements (November 2023)**

  This guide provides guidance for occupancy related policy to owners converting their projects to Section 8 Project-Based Rental Assistance (PBRA). This is not an all-inclusive guide but highlights certain requirements owners should be aware of.

- **Rental Assistance Demonstration: Implementation of Certain Fiscal Year (FY) 2018 Appropriations Act Provisions (FRN 6105-N-01)**

  This notice establishes rules for which FY rent levels are used and rules for deadlines for submission of completed RAD applications. It also specifies that the RAD application has been significantly simplified, and outlines changes in multiphase deadlines and the ability to withdraw and reapply for RAD to receive more current rent levels, in addition to RAD Second Component changes.

- **Rental Assistance Demonstration (RAD) - Supplemental Guidance HUD Housing Notice (H 2018-05, PIH 2018-11)**

  This HUD Housing Notice, and corresponding Federal Register notice, revises certain portions of the RAD Implementation Notice H 2017-03 REV-3/PIH 2012-32 REV-3.

Links to all new notices and the revised REV-3 can be found on NMAReferences.com.

	HCV	Public Housing	PBRA
Department	PIH	PIH	Multifamily
Subsidy Type	Tenant-based	Project-based	Project-based
Operated by	PHA	PHA	Owner/PHA
HAP Contract	PHA/Owner for one unit	None	HUD/Owner (PHA) for multiple units
HAP Payments	PHA to Owner	None	HUD to Owner/PHA
Regulations	24 CFR 982	24 CFR 960	HUD 4350.3
Key Document	Admin Plan	ACOP	TSP
Reporting	50058	50058	50059

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RAD DEMONSTRATION PROGRAM DIFFERENCES FROM REGULAR PBRA

Topic	PBRA Requirements that are Waived	RAD PBRA
Length of Contract	• Maximum term of 15 years for an existing structure • Section 8(d)(2)(A) of the Act	Initial HAP term of 20 years
Contract Renewal	HUD required to renew at the request of the owner	Mandatory contract renewals
Contracts	N/A	RAD Use Agreement runs concurrently with the HAP contract
Contract Rents—Initial	• Section 8(c)(1) of the Act governs rent setting • Section 8(c)(5) of the Act and 24 CFR 880.503(b) governs the project account	• HUD calculates initial contract rents and establishes on HAP contract • Capped at 120% of the FMR minus any UA • Exceptions may be made for: - PHA request - MTW fungibility - Rent bundling - Future Replacement Housing Factor (RHF) funds
Contract Rent Adjustments	Section (8)(c)(2) of the Act and 24 CFR 880.609	• Adjusted annually at anniversary date of HAP contract by HUD's OCAF • Maximum Rent is higher of 140% of FMR (minus UA) or market rent as determined through an RCS
Distributions	24 CFR 880.205 establishes limitations on distributions for profit-motivated owners and authorizes HUD to require owners establish a residual receipts account	Projects not subject to any limitation on distributions
Transfer of Assistance	N/A	May transfer part or all of rental assistance contract to unassisted units owned or controlled by a public or non-profit entity

Topic	PBRA Requirements that are Waived	RAD PBRA
Screening (Existing Tenants)	Owner screens for program and project eligibility and suitability	No rescreening
Income Limits (Existing Tenants)	Either 50% or 80% depending on when the HAP contract was initially executed	Existing tenants may remain in the unit if over-income
Income Targeting (Existing Tenants)	40% of units vacated to families at or below 30% of AMI	Does not apply to existing tenants
Rent Increases	24 CFR 880.201 defines total tenant payment (TTP)	If a resident's rent increases by more than the greater of 10% or $25 as a result of the conversion, rent increase phased in over 3 years (may be extended to 5 years)
PH Family Self-Sufficiency	N/A	Current participants continue to be eligible after conversion May not enroll new participants Must provide service coordinators and payments to escrow until end of the Contract of Participation
Resident Organizations	N/A	PHA must provide $25 per occupied unit annually for resident participation, $15 of which goes to legitimate resident organizations

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Topic	PBRA Requirements that are Waived	RAD PBRA
Termination Notices	24 CFR 880.607and 880.603 (additional requirements under RAD)	• Follow regular PBRA provisions and adds: • Adequate written notice of lease termination, not less than: - A reasonable period of time, not to exceed 30 days • If the health or safety of other tenants, owner employees, or person residing in the immediate vicinity of the premises is threatened; or • In the event of any drug-related or violent criminal activity or any felony conviction - 30 days in the case of nonpayment of rent
Grievance Process	Notice requirements for covered actions under 24 CFR Part 245 (additional requirements under RAD)	• Follow regular PBRA provisions and adds: • Residents provided with notice of the specific grounds of proposed owner adverse action and right to an informal hearing • Informal hearing with an impartial member of PHA's staff within a reasonable period of time • Opportunity to be represented by another person, to ask questions of witnesses, have others make statements at the hearing, examine any regulations or evidence relied upon, copy any documents or records related to adverse action • Written decision within a reasonable period of time stating grounds for action and evidence relied upon • PHA bound by decision unless hearing concern mater that exceed authority of impartial party conducting hearing or decision is contrary to HUD regs/requirements or federal, state or local law

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Topic	PBRA Requirements that are Waived	RAD PBRA
Earned Income Disregard (EID)	N/A	Participating individuals continue EID after conversion unless they undergo a break in employment, cease to use the EID or it expires
Capital Fund Education and Training Community Facilities (CFCF) Program	N/A	Continues to qualify
Access to records	N/A	PHAs must agree to any reasonable HUD request for data to support program evaluation
Davis-Bacon Act and Section 3	N/A	Applies to all initial repairs to the extent they qualify as construction or rehabilitation
Waiting List	24 CFR 880.603 regarding selection and admission of assisted tenants does not apply to the initial waiting list, but applies thereafter	• Project-based lists: Must use list that existed at the time of conversion. If PHA transfers assistance to another neighborhood, must notify applicants of transfer and how to apply for assistance. Existing applicants have priority on new waiting list • System-wide lists: Offer applicants placement on converted project's initial list. Follow 24 CFR 903.7(b)(2(ii)-(iv) in establishing waiting list
Mandatory Insurance Coverage		Mandatory liability insurance
Choice-Mobility (Right to Move)	Project-based assistance	• Right to move with a tenant-based voucher (HCV) at later of 24 months from date of execution of HAP contract or move-in date - Optional turnover cap of one-third of vouchers in any year - Optional project turnover cap of 15% of assisted units in project in any year

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COMMON HOUSING TERMS AND ACRONYMS

Acronym	Definition
AAF	Annual Adjustment Factor
ACC	Annual Contributions Contract. Annual Contracts with Public Housing Authorities for payments towards rents, financing debt service, and financing for modernization.
ACOP	Admissions and Continued Occupancy Policy
ADA	Americans With Disabilities Act (Section 504)
AFFH	Affirmatively Furthering Fair Housing
AFHMP	Affirmative Fair Housing marketing Plan
AFS	Annual Audited Financial Statements
AHAP	Agreement to Enter into Housing Assistance Payment Contract
AMI	Area Median Income
AMP	Asset Management Project
ARRA	American Recovery and Reinvestment Act
CA	Contract Administrator
CDBG	Community Development Block Grant (CPD program)
CFP	Capital Fund Program
CFR	Code of Federal Regulations
CHDO	Community and Housing Development Organization. Non-profit housing provider receiving minimum of 15% of HOME Investment Partnership funds.
CLPHA	Council of Large Public Housing Authorities
CoC	Continuum of Care approach to assistance to the homeless
COCC	Central Office Cost Center
Continuum of Care	Federal program stressing permanent solutions to homelessness
CPD	HUD Community Planning and Development
DHAP	Disaster Housing Assistance Program (HCV Program)

Acronym	Definition
ED	Executive Director
EIV	Enterprise Income Verification
Fair Housing Act	1968 act (amended in 1974 and 1988) providing HUD Secretary with fair housing enforcement and investigation responsibilities
FFY	Federal Fiscal Year
FHA	Federal Housing Administration (HUD Office of Housing)
FHAP	Fair Housing Assistance Program (FHEO program). Program assisting State/local govt with process fair housing complaints.
FHEO	Fair Housing and Equal Opportunity (HUD Office of)
FMC	Financial Management Center (Section 8; under PIH)
FMD	Financial Management Division (Public Housing)
FMR	Fair Market Rent (maximum rent for Section 8 rental assistance)
FSS	Family Self Sufficiency program
FUP	Family Unification Program
HAP	Housing Assistance Payments
HCV	Housing Choice Voucher
HERA	Housing and Economic Recovery Act of 2008
HFA	Housing Finance Agency. State or local agencies responsible for financing and preserving low/mod housing within a state.
HHS	Office of Health and Human Services
HOME	Home Investment Partnerships (CPD program)
HOPE VI	Program for Revitalization of Severely Distressed Public Housing (PIH program)
HOPWA	Housing Opportunities for Persons with AIDS (CPD program)
HQS	Housing Quality Standards
HUD	U.S. Department of Housing and Urban Development
HUDCLIPS	HUD Client Information and Policy Systems
HUDstat	Internal Reporting System
HUD-VASH	HUD-Veterans Affairs Supportive Housing Program
IMS or (IMS-PIC)	Inventory Management System
IREMS	Institute for Real Estate Management
IRS	Internal Revenue Service

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Acronym	Definition
LEP	Limited English Proficiency
LGBT	Collectively refers to the lesbian, gay, bisexual, and transgender community
LIHTC	Low Income Housing Tax Credit
LDP	Limited Denial of Participation
LURA	Land Use Restriction Agreement
MAHRA	Multifamily Assisted Housing Reform and Affordability Act of 1997
MAT	Monthly Activity Transmission
MDDR	Multifamily Delinquency and Default Reporting System
MFHRHIIP	Multifamily Housing Rental Housing Integrity Improvement Project
MOR	Management and Occupancy Review
MSA	Metropolitan Statistical Area
MSA	Minimum Set-Aside
MTSP	Multifamily Tax Subsidy Project
MTW	Moving to Work
NAHRO	National Association of Housing and Redevelopment Officials
NAUR	Next Available Unit Rule
NCSHA	National Council of State Housing Agencies
NDNH	National Directory of New Hires
NED	Non-Elderly Disabled
NOFA	(HUD) Notice of Funding Availability
NPV	Net Present Value
NRA	Net Restricted Assets (Current Assets - Current Liabilities - Program Income)
NTO	National Tenant’s Organization
O/A	Owner or Owner’s Agent
OCAF	Operating Cost Adjustment Factor
OFFP	Operating Fund Financing Program
OFND	Operating Fund Program
OGC	(HUD) Office of General Counsel
OHHLHC	(HUD) Office of Healthy Homes and Lead Hazard Control
OIG	Office of Inspector General

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Acronym	Definition
OMB	U.S. Office of Management and Budget
Operating Subsidies	Payments authorized by the U.S. Housing Act of 1937 for operating costs of low-rent public housing projects.
PASS	Physical Inspection Assessment Subsystem
PBCA	Performance Based Contract Administrator
PBRA	Project-Based Rental Assistance
PBVP	Project-Based Voucher Program
PD&R	Policy Development and Research (HUD Office of)
PH	Public Housing
PHA	Public Housing Authority
PHAS	Public Housing Assessment System (under REAC)
PHMAP	Public Housing Management Assessment Program (under PIH)
PIC	Public and Indian Housing Information Center
PIH	Public and Indian Housing (HUD Office of)
PILOT	Payment in Lieu of Taxes
PJs	Participating Jurisdictions (in HOME program)
PUM	Per Unit Month
QHWRA	Quality Housing and Work Responsibility Act
RAD	Rental Assistance Demonstration
REAC	(HUD) Real Estate Assessment Center
REMS	Real Estate Managers System
RHIIP	Rental Housing Integrity Improvement Project
ROSS	Resident Opportunity and Supportive Services
SAVE	Systematic Alien Verification for Entitlements Program
Section 3	Obligates PHAs to afford resident access to jobs and contracting opportunities created by federal funding
Section 8	Housing Assistance Payment Program (Housing and Community Development Act of 1974)
Section 8	Housing Choice Voucher Program (Housing and Community Development Act of 1974)
Section 8 FMC	Section 8 Financial Management Center (under PIH)
Section 184	Loan Guarantee Program

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Acronym	Definition
Section 202	Loans for construction/rehab of housing for the elderly or handicapped
Section 203	Basic FHA Single Family mortgage insurance program.
Section 108	Section 108 Loan Guarantee Program (under CPD)
Section 202/811	Programs for housing assistance to the elderly and people with disabilities
Section 207	Basic FHA multifamily insurance program
Section 221(d)(2)	FHA Single Family Mortgage insurance for low/moderate income families
Section 221(d)(3)	FHA mortgage insurance for Multifamily housing for low/moderate income families.
Section 223(e)	FHA mortgage insurance with housing in older declining neighborhoods
Section 223(f)	FHA mortgage insurance to refinance existing multifamily housing
Section 231	Mortgage insurance for housing constructed or rehabilitated primarily for elderly persons
Section 235	FHA single family mortgage insurance with subsidies on interest for low/moderate income families
Section 236	FHA multifamily mortgage insurance with subsidies on interest for low/moderate income projects
SEMAP	Section 8 Management Assessment Program
SRO	Single-Room Occupancy. Mortgage insurance under Section 221(d) for single room apartments.
SSA	Social Security Administration
SSN	Social Security Number
SWICA	State Wage Information Collection Agency
TANF	Temporary Assistance to Needy Families
TARC	Troubled Agency Recovery Center (under PIH)
TEAPOTS	Title VIII Paperless Office and Tracking System (FHEO system)
TIC	Tenant Income Certification
TRACS	Tenant Rental Assistance Certification System
TSP	Tenant Selection Plan
UA	Utility Allowance
UAA	Utility Allowance Analysis
UFAS	Uniform Federal Accessibility Standards
TTP	Total Tenant Payment

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Acronym	Definition
UMA	Unit Months Available
UML	Unit Months Leased
UNA	Unrestricted Net Assets
UPCS	Uniform Physical Condition Standards
USCIS	United States Citizenship and Immigration Services
VA	Veterans Affairs (U.S. Department of)
VASH	HUD-Veterans Affairs Supportive Housing Program
VAWA	Violence Against Women Act
VCA	Voluntary Compliance Agreement. Conciliation agreement signed by a complainant to resolve a complaint.
VMS	Voucher Management System
WASS	Web Access Security Subsystem

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Section 5 Chapter 1 Post Test

1. Like in the Housing Choice Voucher (HCV) program, rental assistance under the project-based Section 8 program is tied to the resident.
   a. True
   b. False
2. The Section 8 project-based rental assistance program falls under HUD's Office of Multifamily Housing.
   a. True
   b. False
3. Housing notices (H Notices) are mandatory while current and not used once they expire.
   a. True
   b. False
4. HUD updates the 4350.3 handbook:
   a. Annually
   b. From time to time as needed
   c. Monthly
   d. Every 5 years
5. The requirements for running a standard PBRA project are exactly the same as the requirements for running a RAD PBRA project.
   a. True
   b. False
6. Owners are required to pick a management agent who is:
   a. An owner/agent
   b. An identity of interest
   c. An independent fee management
   d. Any of the above
7. CAs/PBCAs typically perform which of the following functions?
   a. Reviewing and following up on REAC inspection
   b. Processing monthly TRACS and voucher submissions
   c. Approving annual utility allowance analysis
   d. Approving rent increases
   e. All of the above

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8. HAP contracts executed under the RAD PBRA program are the only new project-based Section 8 HAP contracts that may be executed by the Multifamily arm of HUD.
   a. True
   b. False
9. Regarding RAD properties, after the initial HAP contract expires, the owner may opt-out of the program.
   a. True
   b. False

CHAPTER 2 Tenant Selection and Waiting List Management

Section 1 Learning Outcomes and Overview

LEARNING OUTCOMES

Upon completion of this chapter, you should be able to:

- Identify information that must be included as part of the tenant selection plan (TSP)
- Apply preferences correctly
- Develop occupancy standards
- Discuss how to manage the waiting list
- Perform screenings for eligibility and suitability
- Develop an affirmative fair housing marketing plan

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Section 2 Tenant Selection Plan (TSP)

HUD Handbook 4350.3, Chapter 4, Section 1

The tenant selection plan (TSP) describes the owner's policies and procedures for determining applicant eligibility. The TSP must be made available to the public when requested. Language on the availability of the plan should be included in the TSP. As a best practice, owners should also post a copy of the TSP in a common area of the property.

The TSP must include all HUD-required topics and may include HUD recommended topics, as discussed throughout this chapter.

Each property must have a TSP that is consistent with the purpose of providing greater housing opportunities and reasonably related to the applicant's program eligibility and ability to perform the obligations under the lease.

HUD does not approve a project's tenant selection plan. However, during a management and occupancy review (MOR), HUD or the contract administrator (CA) will review the project's TSP and may require the owner to make revisions if the current TSP is out of compliance.

Although annual updates are not required, HUD recommends that owners review their TSP at least annually to ensure that all current operating practices, program priorities, and HUD requirements are accurately reflected. Owners are required to include procedures on how the plan will be updated if necessary.

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HUD requires that the TSP include the following information on the establishment and maintenance of the waiting list:

- Project eligibility requirements
  - Project-specific requirements
  - Citizenship requirements
  - Social security number requirements
- Income limits
- Procedures for accepting applications and selecting from the waiting list
  - Procedures for accepting applications and selecting from the waiting list
  - Procedures for applying preferences
    - Including income-targeting in Section 8 properties
  - Applicant screening criteria
    - Required drug-related or criminal activity criteria including State lifetime sex offender registration check in all states where applicant household members have resided or using database that checks against all state registries
    - Procedures for using the EIV Existing Tenant Search
    - Other allowable screening criteria
  - Procedures for rejecting ineligible applicants
- Occupancy standards
- Unit transfer policies
  - Including selection of in-place residents versus applicants from the waiting list when vacancies occur
- Policies to comply with Section 504 and the Fair Housing Act and other relevant civil rights laws and statutes
- Policy for opening and closing the waiting list
- Eligibility of students
- Policies for applying VAWA protections
- Policy regarding the use of Safe Harbor income determinations

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- Policies prescribing when and under what conditions the family must report a change in family income or composition
- Policy regarding use of EIV at interim recertifications
- Policy regarding accepting self-certification of assets equal to or less the HUD-determined threshold amount (adjusted annually for inflation)
- Percentage threshold for conducting interims for decreases in income
- Policy for conducting interims for earned income increases after an interim has been conducted for a decrease in income
- Policy for conducting interims during the last three months of a certification period for income increases
- Policy regarding revocation of consent
- Policies regarding repaying or crediting the family when there are de minimis errors in income determinations
- Policies regarding hardship exemptions for health/medical care expenses and reasonable attendant care when the family requests hardships under the general relief and phased-in relief categories and for the child care expense hardship

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In addition to the required topics, HUD recommends that owners incorporate policies and procedures in the TSP on the selection of applicants from the waiting list. This allows one point of reference for all applicants, tenants, and the owner's staff when questions arise. Recommended TSP topics include:

- Notification of applicants and the opportunity to supplement information already provided
- Procedures for identifying applicants who require accessible units or a reasonable accommodation
- Updating the waiting list
- Policies for notifying applicants and potential applicants when any changes are made to the TSP
- Procedures for assigning units with accessibility features for persons with physical disabilities
- Charges for facilities and services
- Requirements for security deposit
- Scheduling unit inspections
- Requirements for annual and interim recertifications
- Implementation of changes to house rules

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Section 3 Preferences

HUD Handbook 4350.3, Paragraph 4-6

Preferences allow eligible applicants on the waiting list to be selected for an available unit ahead of those on the waiting list who do not qualify for a preference. Preferences only affect the order of the waiting list; they do not affect an applicant's eligibility for the program. Owners are not required to adopt preferences at all properties and may rely on the date and time of application alone when HUD does not require a project-specific preference.

24 CFR 5.655(c)

If the owner adopts preferences, they must inform all applicants about the availability of preferences and give them the opportunity to claim them. When adopting a new preference, the owner must notify all applicants on the waiting list to determine if they are eligible under the new preference.

There are four different types of preferences:

- Statutory displacement
  - In Section 221(d)(4), 221(d)(3), and 221(d)(3) BMIR properties only, owners must give preference to applicants who have been displaced by government action or a presidentially declared disaster.
- HUD regulatory preferences
  - Applies to Section 236 properties only
- State and local preferences
  - Owners must submit a written request for approval to the HUD Field Office when state or local laws require that the owner adopt a particular preference
  - For example, some states require veterans preferences or a preference for victims of domestic violence

Notice H 2013-21

- Owner-adopted preferences
  - Owners may establish their own preferences as long as the preferences do not supersede any program-specific preferences and comply with applicable fair housing and civil rights laws.
  - If the owner adopts any preferences other than those detailed in 24 CFR 5.655(c)(1)-(c)(5), the preference must be approved by the local HUD Field Office.

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- The owner must specify the type of preference with a full description of the preference and how it will be implemented.
  - Owners may remove owner-adopted preferences at any time without HUD approval.
  - Changes to owner-adopted preferences must be detailed in the owner's TSP, and if the owner adopts a residency preference, in the AFHMP as well.
  - If the owner adopts a residency preference that must be added to the TSP and AFHMP, the TSP and AFHMP must be submitted to HUD for approval of the update. If the owner adopts a homeless preference, it must be added to the TSP, and the TSP must be submitted to HUD for approval.
  - Per the HUD Memorandum dated 10/16/2016, Allowable Special and Add-on Management Fees to Implement a Homeless Preference, owners may now receive:
    - A Special Fee for the first nine months of implementation at $2.50 per unit per month (PUPM), with a maximum annual of $4,500 per property.
    - After the first nine months, the owner may receive an Add-on fee of $2.00 PUPM, with a maximum annual of $3,600 per property, as long as there is at least one Code 5 (homeless) move-in per one-year period.

If the owner chooses to adopt preferences, a rating, ranking, or combination system must be outlined in the TSP and used consistently. All owner-adopted preferences are subordinate to income targeting requirements as well as statutory and regulatory preferences.

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OWNER-ADOPTED ELDERLY/DISABLED PREFERENCES

There are several property types where the owner may adopt a preference for elderly families. Property types covered by Title VI, Subtitle D of the Housing and Community Development Act of 1982 include:

- Section 8 New Construction
- Section 8 Substantial Rehabilitation
- State Housing Agency programs for Section 8 New Construction and Substantial Rehabilitation
- Rural Housing 515/8
- Section 8 Property Disposition Set-Aside (applies only to properties that involve substantial rehabilitation)

This specific owner-adopted preference requires the use of either definition A or definition D found in the HUD Handbook 4350.3 REV-2 or the following definition:

> "A near-elderly family is a family whose head, spouse, or sole member is a person with disabilities who is at least 50 years of age, but below the age of 62; or two or more persons with disabilities 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."

In order for an owner to implement this preference, they must show that the property was originally designed for occupancy primarily by elderly families. While HUD does not approve the implementation o f this preference, owners must ensure proper documentation is present in case documentation is requested by HUD.

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RAD PBRA

Unlike in public housing, owners of RAD PBRA properties may not establish an elderly designation (i.e., a set-aside of units for the elderly). However, owners may adopt a preference for elderly individuals and/or elderly families, which permits those applicants to be selected from the waiting list and housed before other eligible families. Any preference adopted as part of the conversion that will alter the occupancy of the property is subject to an upfront civil rights review during the RAD conversion process. Certain preferences also require approval from HUD's Multifamily Field Office as described above.

For RAD properties, preferences that may be adopted without HUD approval include:

- Single persons who are 62 or older over other single persons
- Single persons who are displaced over other single persons
- Single persons who are homeless over other single persons
- Single persons with disabilities over other single persons

Preferences that Require HUD Multifamily Field Office approval include but are not limited to:

- Elderly families
- Near-elderly single persons
- Near-elderly families

This approval must be secured prior to conversion if the owner intends to implement the preference for new admissions immediately following conversion.

Owners are cautioned not to assume a preference will be approved based on request alone. This is especially important if pursuing tax credits that may require the owner to serve a specific population. HUD approval for the population preference should be obtained prior to securing the tax credits to ensure the owner can comply with any tax credit requirements.

Owners are required by paragraph 1.7.C.9 of the RAD Notice to submit their request for an owner-adopted preference to the account executive (Field Office) prior to execution of the HAP contract. Doing so will reduce the applicant notification burden put on the owner when a new preference is applied to the property. Further, having the preference approved prior to execution of the HAP contract will permit the property to continuously operate in the closest manner to how it operated pre-conversion.

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PREFERENCE VERIFICATION

Preferences must be verified either at the time of application or when the applicant is near the top of the waiting list and there is an available unit. Typically, owners determine preference status when an applicant reaches the top of the list because qualifying for a preference is based on current status. For example, if a family member qualified for a working preference when they applied, but they are no longer working when they reach the top of the waiting list, the preference would not be given. If the family no longer qualifies for a preference they previously claimed, this does not affect the family's eligibility for occupancy. However, the preference must not be given, and the family would be placed back on the waiting list based on their new status, but with their original date and time of application.

The TSP must also describe acceptable verification that the applicant qualifies for the preference. While verification methods for preferences typically vary depending on the preference, acceptable verification documentation for common preferences includes:

- **Displacement due to governmental or presidentially declared disaster**: Applicants must provide copies of local government condemnation, displacement notices, or government notices that indicate the applicant is eligible for disaster relief benefits. Owners may accept a letter from a government organization that confirms the applicant is or is in the process of being displaced. If written documentation is not available, the owner may verify displacement by phone with the local government office or a disaster relief office. If verified by phone, the owner must create a note to file including the date of the oral verification.
- **Military status**: A current military identification card or letter on appropriate letterhead confirming current military status may be provided by the applicant. This information must be collected for the head, spouse, or cohead only.
- **Income (for Section 236 with RAP only)**: All income must be verified in accordance with Chapter 5 of HUD Handbook 4350.3.
- **State and local preferences**: Verification documentation will depend on the type of preference that is adopted by the owner.

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- **Residency**: Documentation of the applicant's address such as copies of utility bills, lease agreements, or other documents should be provided. For applicants who plan to live in the municipality due to planned employment or for applicants who are currently employed, a letter from a current or future employer or a current work identification badge with the office address are acceptable.
- **Working**: A letter from the employer or paycheck stubs should be provided.
- **Disability**: Documentation includes a form or letter from a knowledgeable professional source indicating the family member meets the HUD definition of disability or documentation verifying receipt of social security disability payments.
- **Age**: Birth certificates, social security, or military documents that show the applicant's date of birth are all acceptable when confirming that applicants who claim an elderly preference are 62 years of age or older (in properties in which an elderly preference is permitted).

The O/A may remove owner-adopted preferences at any time without HUD approval but must detail the change in the TSP and notify applicants on the waiting list.

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Section 4 Occupancy Standards

HUD Handbook 4350.3, Paragraph 3-23

As part of the TSP, the owner must develop and follow occupancy standards for each property. Occupancy standards must consider the unit size and the number of bedrooms needed based on the family's size and composition. All households must be assigned to an appropriately sized unit according to the property's occupancy standards. The purpose of occupancy standards is to ensure that residents are not over or under-housed and that all residents are treated fairly and consistently.

When developing occupancy standards, owners must ensure that they do not violate fair housing laws, state or local landlord-tenant laws, zoning restrictions, and all HUD requirements. While, HUD does not specify the number of persons that may reside in units of a particular size, there are some general guidelines that owners must follow:

- Generally, two persons per bedroom is an acceptable standard
  - Owners must take into account specific property issues such as square footage
- Owners may not have policies that exclude children or that are meant to prohibit families with children
  - Owners may not exclude otherwise eligible elderly families with children from elderly or elderly/disabled properties
- Owners must not dictate a family's sleeping arrangements
- Occupancy standards must allow for family preferences to be considered
- Owners must take into consideration:
  - Number of persons in the family
  - Age, sex, and relationship of members
  - Reasonable accommodation
  - Ensuring the family is neither over or under-housed
- If a family qualifies for more than one unit size, the family must be allowed to choose the unit size they prefer

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When determining unit size for a household, the following members must be counted:

- All full-time members of the family
- Unborn children of pregnant women
- Children who are in the process of being adopted
- Children whose custody is being obtained by an adult family member
- Foster children and adults
- Children who are temporarily absent due to placement in foster care
- Children who are in joint custody arrangements who will live in the unit for 50 percent or more of the time
- The owner may count children who are away at school but will live in the unit during breaks and vacations
- Live-in aides
- The owner may establish reasonable policies for family members who are temporarily in a correctional facility

A smaller unit may be assigned to a family if:

- The family requests a smaller unit
- The family is eligible for the unit based on the owner's occupancy standards
- Occupancy of the smaller unit would not cause overcrowding
- It would not conflict with any state or local laws

A larger unit may be assigned to a family if:

- There is no eligible family that needs a larger unit and the family is able to move into the unit within 60 days
    - The property has the appropriate size unit but the unit is not currently available
    - The family agrees in writing that they will move at their own expense when an appropriately sized unit becomes available
- The family needs a larger unit as a reasonable accommodation

A single person may not live in a unit with two or more bedrooms unless the person:

- Needs a larger unit as a reasonable accommodation
- Is displaced and an appropriately sized unit is not available
- Is elderly and has a verifiable need for a larger unit
- Is a remaining family member and there is not an appropriately sized unit available to which the person may transfer

Family size and occupancy standards should be reviewed before a household is screened for eligibility. This will ensure that the property has an appropriately sized unit to accommodate the household. Owners must also review occupancy standards when there is a change in family composition to determine if the household is required to transfer to an appropriately sized unit. Owners may require the household transfer to an appropriately sized unit to avoid over or under-housing. If an appropriately sized unit is not available, the owner may not evict the household or increase their rent to the market rent. If the family refuses to move to the correct size unit, the family may stay in their current unit and pay market rent. The owner may not evict the family for refusing to move, but may evict the family for failure to pay the market rent.

If a household is currently living in an accessible unit but no longer requires the accessible features, the owner may ask the household to move, provided provision was made in the household's lease.

RAD PBRA: Under-Occupied Units

If at the time of conversion, an eligible family assisted under the HAP contract is occupying a unit that is larger than appropriate because of the family's composition, the family is permitted to continue occupancy until an appropriate-sized unit becomes available in the project at which point, the family living in the under-occupied unit must move to the appropriately sized unit within a reasonable period of time.

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Section 5 Unit Transfers

HUD Handbook 4350.3, Chapter 7, Section 3

Based on the property's occupancy standard in the TSP, the owner must decide whether a change in family size or composition will require a resident family to transfer to another, more appropriately sized unit. As part of the transfer policy outlined in the TSP, owners must address the transfer waitlist, acceptable reasons for transfers, procedures for filling vacancies, and owner's policy for establishing priority for filling vacant units with either residents waiting to transfer or applicants from the waitlist. Owners should also include in their written policy when a transfer, such as emergency transfers, would be required. When determining whether a transfer is required based on changes to family size or composition, the owner should consider whether:

- There is an appropriately sized unit in the property to which the family may transfer.
  - If so, then the transfer would be required.
  - If not, then the household should be moved to the most appropriately sized unit available.
- There is a market for the unit size the household would be vacating.
  - If the unit the household is currently residing in is larger than needed, and there is no demand for that sized unit, the owner does not have to require the household to move until there is a need for that unit size.
- The household has given the owner a written notice that they intend to vacate.
  - If so, the owner does not have to require the household to transfer.

If the owner determines that a transfer is required, the owner must keep in mind the requirements in the HUD model lease for subsidized programs:

- The resident may remain in the current unit and pay the HUD-approved market rent.
- The resident must move within 30 days after the owner notifies the family that a unit of the required size is available.

- If a resident is transferring for a reason not relating to a reasonable accommodation, the resident may be obligated to pay all costs associated with the move.
- If a resident is transferring as a reasonable accommodation, the owner must pay all costs associated with the move, unless doing so would be an undue financial and administrative burden.

Owners must also develop transfer policies in the TSP for resident-requested transfers, such as:

- Changes in family size
- Medical reasons
- Reasonable accommodations
- A desire to live in a larger unit
- A desire for a unit in a different location in the property
- A desire to be closer to the complex's amenities

EFFECTIVE DATES

When a household is transferred, the changes in rent and HAP are effective on the day that the household actually occupies the new unit. This is done by creating a unit transfer via the 50059-A. The household's annual recertification anniversary date will remain the same.

Owners may not reduce or terminate assistance associated with the original unit until the household has been offered a transfer to an appropriately sized unit and has been given no fewer than 30 days to move to the new unit.

TRANSFER CONSIDERATIONS IN OTHER PROGRAMS

In Section 236 or Section 221(d)(3) BMIR cooperatives, when a member is not receiving any other assistance, the co-op may establish its own policy on whether the co-op should offer over-housed members smaller units and require members who refuse to pay the market rate carrying charge.

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In a Section 202/8 property, adult children are only eligible to move in after initial occupancy if they are essential for the care or well-being of the elderly resident. In this situation, the adult child would not be considered a live-in aide, rather they would be considered a family member and all income would be counted. Since adult children qualify for occupancy in a Section 202/8 property only as long as the household member needing the services is in occupancy, the adult child should sign a release form relinquishing any future rights to the unit as a remaining member of the household.

In Section 202 PRAC and Section 811 properties, adult children are not eligible to move in after initial occupancy unless they are approved as a live-in aide.

Cooperatives may collect fees for processing transfers, but only for a member who voluntarily initiates a transfer, not when transfers are required due to changes in household composition. Such fees must be approved by the cooperative's board and be consistent with the cooperative's by-laws and occupancy agreements. The fees must be reasonable and do not need to be approved by HUD.

RAD PBRA: Choice Mobility

Residents have a right to move with tenant-based rental assistance (e.g., Housing Choice Voucher (HCV)) the later of:

- 24 months from date of execution of the HAP; or
- 24 months after the move-in date

The voucher agency may, but is not required to, create a voucher turnover cap to provide no more than one-third of the agency's turnover vouchers in any year to residents in covered projects. The PHA and the voucher agency may agree, but are not required to, limit the number of Choice-Mobility moves exercised by eligible households to 15 percent of the assisted units in the project in any year. If either policy is adopted, a waiting list must be created and maintained in the order in which requests from eligible households were received.

The voucher agency must maintain a written agreement with the owner describing how the Choice Mobility option will be administered. Certain "good cause" exceptions are outlined in Notice H-2019-09.

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Section 6 Accepting Applications

HUD Handbook 4350.3, Paragraph 4-14

Anyone who wishes to fill out an application must be given the opportunity to complete one either at the property or by having an application mailed to them. If an applicant requests an alternative method for filling out or submitting an application because of a disability, the owner must do so as a reasonable accommodation such as a reader for the sight-impaired. Once an application is submitted, the owner must indicate the date and time the application was received and the initials of the person who accepted it.

Pre-Application vs. Full Application

Initially, owners may choose to use either a pre-application or a full application, depending on the length of the property's waiting list. A full application requires that the applicant disclose all information needed for the owner to make an eligibility determination. A shorter pre-application is typically used when an applicant will be placed on a waiting list instead of being offered a unit immediately or the wait for a unit will be lengthy. Pre-applications typically contain the minimum amount of information needed to determine whether the applicant should be placed on the waiting list. If the owner elects to use a pre-application, a full application must be completed when a unit becomes available.

Content of the Full Application

While HUD does not provide a model application, there are several required items that must be included, as well as several recommended items that may be included.

The application must include:

- A signature from the applicant that certifies the accuracy and completeness of the information included.
- An inquiry into whether any member of the household is subject to a state lifetime sex offender registration.
    - HUD recommends owners use the Dru Sjodin national sex offender database at www.nsopw.gov

- A listing of all states in which the applicant and members of the applicant's household have resided.
  - This information is used as part of the lifetime sex offender screening requirement.
- A place for all household members to disclose a complete and accurate SSN
  - Except for noncontending individuals, or
  - Individuals who were 62 or older and already receiving assistance as of January 31, 2010
- A Supplement to the Application for Federally Assisted Housing form (form HUD-92006)
  - The form gives the applicant the opportunity to include information on an individual or organization that may be contacted to assist in providing any services or special care during tenancy and to assist with resolution of any tenancy issues.
  - If the applicant lists more than one contact, the applicant must make clear the reason each person or organization may be contacted.
  - Applicants are not required to provide contact information
  - After admission, owners should offer residents the opportunity to update the contact information at each annual recertification.
  - All contact information must be kept confidential.
  - The form must be retained, along with the application, for three years after an applicant is rejected or for the term of tenancy plus three years thereafter if the applicant becomes a resident.
- A Race and Ethnic Data Reporting Form (HUD-27061-H):
  - The form gives the applicant the opportunity to self-certify their race and ethnicity.
    - This form must be provided for every household member.
  - While the owner must provide the form, completion of the form is optional.

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The owner may, but is not required to, include:

- Household characteristics such as name, age, and disability status (only where necessary to establish eligibility) for each household member
- Contact information such as address and phone number
- Estimates and sources of household's annual income and assets
  - For income targeting
- Citizenship declaration and verification consent forms
  - Owners may want to have applicants complete the citizenship declaration form only and may wait until the applicant has reached the top of the waiting list to obtain documents to ensure all verifications are timely.
- Questions about how the applicant heard about the property
  - This may assist the owner in understanding whether marketing efforts are effective
- Screening information such as prior landlord history, credit information, and questions about drug or criminal history

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Section 7 Managing the Waiting List

PRELIMINARY ELIGIBILITY

HUD Handbook 4350.3, Chapter 4, Section 3

The owner must record the date and time all applications were received. At this point, the owner will do one of the following:

- Process the application for admission
- Place the applicant on the waiting list
- Reject the applicant

Before placing an applicant on the waiting list, owners should make a preliminary eligibility determination. Owners should review the application to ensure there aren't any obvious factors that would make the applicant ineligible. If the owner determines that the family is preliminarily eligible, but there are no vacant units of appropriate size, the owner must place the family on the waiting list and notify the family when an appropriately sized unit becomes available. If an applicant family is eligible for tenancy, but the property does not have an appropriately sized unit, the owner must reject the applicant.

Some owners choose to perform a more in-depth eligibility determination before placing applicants on the waiting list. For example, the owner may run a criminal background check on all applicants to avoid placing applicants who are obviously ineligible or unsuitable on the waiting list. This may be good practice for properties whose waiting lists are relatively short. However, if the applicant stays on the waiting list for an extended period of time, another full eligibility determination must be completed when the applicant reaches the top of the waiting list, generally within 120 days.

WAITING LIST CREATION

The waiting list must include the following information:

- Date and time the application was submitted
- Name of the head of household
- Estimated annual income
- Identification of the need for an accessible unit, including the need for accessible features
- Preference status (if any adopted)
- Unit size

Applicants may be on more than one waiting list and/or may be waiting for more than one unit size on a particular waiting list, as determined by the owner's policies. For example, if the property is owned by a PHA, the family may be on the PHA's HCV or public housing waiting list as well.

RAD PBRA: Establishment of the Waiting List

RAD PBRA projects may use a project-specific or community waiting list. How families transition from the public housing waiting list to the PBRA waiting list will depend on what type of waiting lists were used when the units were public housing and what type of list the owner will operate after conversion. Notice H-2019-09 has specific details about establishing different types of waiting lists. The creation of the waiting list is to be done using existing PIH rules including any posting or notification requirements and may be done using a lottery system.

If the PBRA waiting list will be site-based, the PHA must maintain the list in accordance with applicable civil rights and fair housing laws and regulations, specifically in accordance with the additional requirements found at 24 CFR 903.7(b)(2(ii)-(iv). Otherwise, after the initial waiting list has been established, the PHA must administer the list for the converted project in accordance with HUD Handbook 4350.3 Chapter 4.

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RAD PBRA: Relocation Notices

HUD has established a series of notices that are specific and mandatory regarding RAD relocations. These are covered in Notice H 2019-09.

These notices must be delivered either in person or by certified mail with return receipt requested, and there are specific times these notices must be delivered. A resident log for tracking all relocations is also required, and the notices and log will be subject to review during an MOR.

- Refer to notice H 2019-09 for details. The footnotes will provide excellent information and examples.

OPENING AND CLOSING THE WAITING LIST

As part of the TSP, the owner must outline policies for opening and closing the waiting list. Owners may periodically update the waiting list in order to ensure it is as up-to-date as possible. The owner may close the waiting list for one or more unit sizes when the average wait is excessive, typically a year or more.

If the owner closes the list, they must:

- Advise potential applicants that the list is closed
- Refuse to take additional applications
- Publish a notice in a publication likely to be read by potential applicants
    - The notice must state the reason for the owner's refusal to accept additional applications

When the list is reopened, the owner must publish a notice in a publication likely to be read by potential applicants, preferably the same one that was used to announce the list was closed. The notification should:

- Be extensive
- List the rules for applying
- State the order in which applications will be processed
- Include where and when to apply
- Conform with the outreach activities identified in the Affirmative Fair Housing Marketing plan

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Owners should monitor vacancies and the waiting list regularly to ensure there are enough applicants on the waiting list to fill vacancies and that the waiting list is not so long that the wait for a unit becomes excessive.

UPDATING THE WAITING LIST

The waiting list should be updated annually or semiannually to ensure all applicant information is current and that any names on the waiting list that should no longer be on the list are removed. This process is typically called purging the waiting list.

Owners must update the waiting list anytime an applicant's household composition changes. The owner's TSP determines if the applicant maintains their original application date or if their place on the waiting list is based on the date of the new determination of family composition.

The waiting list must also accurately reflect any changes to contact information submitted by applicants.

WAITING LIST MAINTENANCE

A notation must be made on the waiting list anytime any action is taken or an activity specific to an applicant occurs. This means that all contact with the applicant must be noted on the wait list. This is especially important when filing special claims. The owner should note actions such as move-ins or rejections, or any activity specific to an applicant such as address changes, household composition changes, etc. The goal is to provide an auditable record of applicant additions, selections, withdrawals, and rejections. Any reviewer should be able to find an applicant on the waiting list, confirm that an applicant was housed appropriately, and track various actions taken.

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The owner must develop a method to maintain documentation of the composition of the waiting list, application status, and other actions. Waiting list policies and documentation procedures should be reviewed periodically to ensure an independent party reviewing the waiting list and supporting documentation could easily follow any action taken. Policies and practices associated with the waiting list should be transparent.

Owners have the option to maintain the waiting list either manually or electronically. Specific requirements apply to both waiting list types. See HUD Handbook 4350.3 REV-2 Chapter 4, Section 3 for more information on requirements for manual and electronic lists.

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Section 8 Applicant Selection

Once a unit becomes available, the owner must select applicants from the waiting list chronologically, taking any preferences into consideration.

INCOME TARGETING

24 CFR 5.653; HUD Handbook 4350.3, Paragraph 4-5

For each property assisted under a project-based Section 8 contract, no less than 40 percent of the dwelling units that are assisted under the contract must be leased to extremely low-income households. Extremely low-income (ELI) households are households whose annual income does not exceed the higher of:

- 30 percent of area median income (AMI); or
- The federal poverty level

Both move-in certifications and initial certifications completed during the fiscal year are counted.

RAD PBRA: Income Targeting
In-place residents at the time of a RAD conversion are not counted toward income targeting requirements.

The TSP must detail how and when applicants will be skipped on the waiting list to meet income targeting requirements and how those applications will be treated when families are skipped. HUD does not have a prescribed methodology that owners must use to comply with the income targeting requirement. Owners should examine the composition of the waiting list and determine whether there are enough ELI households to comply with income targeting requirements by the end of the fiscal year. The owner may be able to pull families from the wait list in order without the need for any additional procedures.

If the owner determines that the current population on the property's waiting list may not or will not allow the owner to achieve the income targeting requirement, the owner must then implement procedures that will ensure compliance.

The owner may select the next extremely low-income (ELI) applicant on the waiting list regardless of whether other households are higher on the waiting list. The owner must make a note on the waiting list indicating the reason applicants were skipped. Owners may not, however, select applicants with relatively high incomes over families with lower incomes.

MATCHING FAMILY CHARACTERISTICS WITH AVAILABLE UNITS

HUD Handbook 4350.3, Paragraph 4-15

When selecting a family to occupy an available unit, owners may match families to units according to family size and the number of bedrooms in the unit. All units with special accessibility features must first be offered to families that include persons with disabilities who require such features.

Families with disabled members that require a unit with accessible features must be offered a unit when they reach the top of the waiting list, regardless of whether an accessible unit is available. The family must be offered the next available unit once they reach the top of the waiting list, and the family may decide whether the unit meets their needs and may reject the unit if it does not.

When an applicant requests an accessible unit or a unit with accessible features, unless the disability is obvious or otherwise known and the need for the features is apparent, the owner should verify that the applicant:

- Is qualified for the unit
- Needs the features as an accommodation for their disability
- Is qualified to receive a priority on the waiting list

When units meeting a household member's disability-related needs are in short supply, the household may decide to accept a nonaccessible unit, but may request some modification to the unit as a reasonable accommodation. Owners may not prohibit an eligible family with a disabled member from accepting a suitable nonaccessible unit. Owners must make physical alterations to the nonaccessible unit as a reasonable accommodation, unless the alterations would result in an undue financial or administrative burden.

INTERVIEWS

HUD Handbook 4350.3, Paragraph 4-24

When an appropriate unit will be available in the near future, the owner must interview the applicant to obtain information on the applicant's current circumstances.

During the interview, the owner must:

- Confirm and update all information provided on the application
  - A full application must be completed if only a pre-application was completed at the time of application
- Explain program requirements, verification procedures, and the penalties for giving false information
- Explain the EIV system and the use of its reports
- Obtain information concerning family income, composition, and other data needed to verify eligibility and calculate rent
- Review the applicant's income information and ask if any member of the household receives any income or assets not reported on the application
- Have the head of household, spouse, cohead, and any other household member age 18 or over sign the HUD-9887 and 9887-A
- Obtain declaration of citizenship from all household members and verification consent forms where necessary
- Inform applicants about the owner's screening requirements, including use of the Existing Tenant Search in EIV
- Require that the head of household, spouse, or cohead sign a written certification for assets disposed of for less than fair market value
  - HUD has not created a certification form so owners should develop their own form or include this information on the application.
  - This does not apply to BMIR projects without rental assistance.
- Require disclosure and verification of SSNs for all household members, except noncontending family members

- Advise the family that HUD will compare applicant-supplied information with information supplied by federal, state, and local agencies concerning the household's income and family composition
- Inform the family that a final decision on eligibility cannot be made until all verifications are complete
- Provide each applicant with a copy of HUD’s Fact Sheet: How Your Rent Is Determined
- Provide each applicant with a copy of the EIV & You and the Resident Rights and Responsibilities brochures
- Inform all applicants that federal laws prohibit the owner from discriminating against individuals with disabilities
- Inform all applicants to elderly/disabled properties about the owner's pet rules
- Generally, owners may not require tenants participate in congregate meals or other services. However, in certain properties this is allowable, and the owner must inform applicants about the requirement to execute a meals contract that is separate from the lease

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Section 9 Screening for Suitability

24 CFR 5.655; HUD Handbook 4350.3, Paragraph 4-7

Eligibility is the determination that the applicant is qualified for the program or subsidy type available at the property. Criteria to determine eligibility include the applicant's ability to meet income limit requirements and their ability to provide documentation of SSNs and citizenship status where applicable.

Suitability is the determination that an eligible applicant has the ability to pay rent on time, abide by the lease, and care for the property and unit.

Effective screening policies ensure that the owner is treating all applicants fairly and consistently. All screening standards must be described in the TSP, including procedures for screening for drug-related criminal activity, criminal activity (including registered sex offender status), and the use of the Existing Tenant Search. Screening criteria must be nondiscriminatory and must be in compliance with all applicable fair housing and civil rights laws.

Applicants may not be charged for screening costs. The owner may, however, charge such costs to the property's operating account.

MANDATORY SCREENING REQUIREMENTS

Owners must establish standards in the TSP that prohibit admission in the following circumstances:

- The applicant was evicted from federally assisted housing for drug-related criminal activity in the last three years.
  - The owner may adopt more stringent requirements such as implementing a five-year timeframe.
  - The owner may, but is not required to, consider:
    - Whether the household member has successfully completed an approved, supervised drug rehabilitation program.
    - Whether the circumstances of the eviction no longer exist.

- Any household member is currently engaged in illegal drug use or the owner has reasonable cause to believe that a household member's illegal use or pattern of illegal use of a drug may interfere with the health, safety, and right to peaceful enjoyment of the property by other residents.
  - The owner should define current illegal drug use in the TSP as well as reasonable cause.
- The owner has reasonable cause to believe that a household member's abuse or pattern of abuse of alcohol may interfere with the health, safety, and right to peaceful enjoyment of other residents.
  - Screening criteria must be based on behavior, not the condition of alcoholism.
  - The owner should adopt policies defining reasonable cause.
- Any household member is subject to a state lifetime sex offender registration requirement.
- Assistance may not be provided initially if the family has:
  - Net assets that exceed $105,574 (adjusted annually)
  - A present ownership interest in, a legal right to reside in, and the effective legal authority to sell, real property that is suitable for occupancy by the family as a residence
- A property is not suitable for occupancy if it:
  - Does not meet the disability-related needs of all members of the family
  - Is not sufficient for the size of the family
  - Is located so as to be a hardship to the family
  - Is unsafe because of physical condition
  - Is not a property that a family may reside in per local and state laws

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- Real property restriction does not apply if:
  - The family is receiving assistance for a manufactured home or under the HCV Homeownership program
  - The family is offering the property for sale
  - Any person is a victim of domestic violence, dating violence, sexual assault, or stalking
  - The property is jointly owned by a member of the assisted family and at least one person who is not a member of the assisted family and who does not live with the family, and the non-household member resides at the jointly owned property
- The Owner may determine compliance based on a self-certification by a family that certifies that the family does not have any present ownership interest in any real property at the time of the income determination or review.

Owners are also required to establish policies and procedures in the TSP for using EIV Existing Tenant Search to determine if the applicant or any member of the applicant's household is being assisted under a HUD rental assistance program in another location.

Permitted and Commonly Used Screening Criteria

Owners may establish additional screening standards that are not mandated by HUD regulations. Owners have the option to:

- Establish additional standards, beyond the required standards, that prohibit admission if the owner determines that any household member is currently engaging in, or has engaged in drug-related criminal activity, violent criminal activity, and other criminal activity that threatens the health, safety, and right to peaceful enjoyment by other residents.
  - However, the owner must define a reasonable length of time in which the applicant must not have engaged in the activity before the applicant would be eligible for admittance to the program.
- Require the household exclude a household member who does not meet screening requirements.

- Consider whether the appropriate household member has completed a drug or alcohol rehabilitation program.
  - The owner may require documentation of successful completion of the program.
- Implement a longer screening period than required by the regulation that prohibits admission to a property for a disqualifying behavior.
- Reconsider the application of a previously denied applicant.
  - Owners must require the applicant to submit documentation, such as a certification from the applicant and/or supporting information from sources such as a probation officer, landlord, neighbor, etc., to support the reconsideration of the decision.
- Consider circumstances relevant to a particular case, such as the seriousness of the offense, effects of denial, degree of participation in the offending activity, and the effect of the offending action on the program's integrity.
- Consider the applicant’s credit history.
  - Owners may deny applicants based on poor credit and may determine how far back to consider an applicant’s credit history, but may not deny an applicant for lack of credit history. Owners must distinguish between acceptable and unacceptable credit ratings.
  - Establish a minimum income requirement at Section 236 and Section 221(d)(3) BMIR properties for applicants who receive no other form of assistance only.
- Consider rental history.
  - Owners may reject applicants for poor rental history but may not deny applicants for a lack of rental history. Owners must distinguish between acceptable and unacceptable rental history.

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If the owner chooses to conduct home visits as part of the screening process, the owner must visit the homes of all applicants, unless the owner has established a geographic radius within which home visits are made or objective criteria for when home visits will be conducted. For example, the owner could only conduct home visits for families who have no rental history.

- Consider housekeeping habits.
  - Owners should establish what level of bad housekeeping would lead to a denial and whether home visits will be required in certain cases.

For all discretionary denial criteria, owners may adopt a policy in the TSP to consider extenuating circumstances in cases where applicants would normally be rejected but other factors indicate the family might be an acceptable future tenant.

The owner must consider extenuating circumstances if the applicant is a person with disabilities who requests a review of the circumstances as a reasonable accommodation. For example, during the denial process an applicant may assert that their poor history was caused by a disability and that a reasonable accommodation will prevent future violations. There may be mitigating circumstances related to the disability and the problems causing the poor history may have been reasonably resolved. The applicant may request that this be taken into account as a reasonable accommodation.

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CONSISTENT SCREENING

Owners and their staff must apply criteria and perform screening consistently for all applicants. To ensure consistent screening for all applicants, owners should:

- Use a consistent or a limited number of staff to perform screening to cut down on inconsistencies created by differing interpretation of policies and procedures.
- Provide step-by-step instructions for staff performing screening activities such as a written procedures manual.
- Develop and use standardized forms.
- Use objective criteria as described in the TSP.
- Follow a formal, written process for information collection.

When screening for rental history, owners could ask previous landlords about:

- A history or pattern of lease or house rules violations
- Noncooperation with the recertification process for families who lived in other HUD-assisted or LIHTC properties
- Number of times the rent was paid late
- Whether the family leave owing money
- The family's history of paying rent and utilities
- Whether the owner would rent to the family again

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HUD Handbook 4350.3, Figure 4-7

Objective/Acceptable Questions
• Was the tenant ever late with a rent payment? If yes, when and how many times was the tenant late? • Did other lease violations occur? If so, what were they? How frequently did each of the other lease violations occur? • Was the tenant ever cited for disruptive behavior? How often? • Did the tenant violate house rules? What rules were violated, and how many times did violations occur? • Was the tenant evicted?
Inappropriate Questions
• Did the tenant's boyfriend/girlfriend visit often? • Did the tenant make lots of complaints to the owner? • What is the tenant's reputation?

Live-In Aides

Live-in aides must be screened for drug abuse and other criminal activity, including state lifetime registration as a sex offender. Live-in aides should be screened with the same criteria as any other applicant with the exception of screening for the ability to pay rent because they are not responsible for rental payments.

Law Enforcement and Security Personnel

Police officers and other security personnel are subject to the same screening criteria developed by the owner as any other applicant. Screening criteria used by the owner must be applied uniformly to law enforcement and security personnel.

Additions to the Household

All additional household members are subject to the same screening criteria developed by the owner that is applied to all applicants selected from the waiting list. Screening criteria used by the owner must be applied uniformly to all additional household members.

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PROHIBITED SCREENING CRITERIA

HUD prohibits any discriminatory screening criteria. Owners must not discriminate against:

- Any federally protected class
- Segments of the population (e.g., welfare recipients, single-parent households)
- Individuals who are not members of the sponsoring organization of the property

Owners are prohibited from rejecting any applicant based on race, color, religion, sex, national origin, familial status, disability, age, or if an applicant is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

Owners may not:

- Require a specific minimum income
  - With the exception of Section 236 and Section 221(d)(3) BMIR properties for applicants who receive no other form of assistance
- Require applicants to undergo a physical exam or medical testing
- Require pregnant women to undergo medical testing to determine whether they are pregnant in order to assign the appropriate unit size
- Impose greater burdens on persons with disabilities
- Require residents to participate in a meal program that is not approved by HUD
- Require a donation or contribution as a condition of admission
- Inquire about an applicant's disabilities
- Violate any state or local laws that prohibit certain screening criteria

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VIOLENCE AGAINST WOMEN ACT (VAWA)

Owners must include policies and procedures covering the Violence against Women Act (VAWA) protections in the TSP and house rules. These policies and procedures must support or assist victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking, and protect victims and affiliated individuals from being denied housing or from losing their HUD-assisted housing as a consequence of their status as a victim. VAWA not only applies to Section 8 programs but also programs under financing subsidies and direct loans and capital advances, such as Section 202 and 811.

- Although the VAWA 2022 statute does not specifically do so, HUD has recently begun 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, we have opted to include human trafficking in this text in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

The VAWA regulations at 24 CFR Part 5, Subpart L states:

- Owners are required to have all residents sign the VAWA lease addendum (form HUD-91067).
- Owners must provide the Notice of Occupancy Rights (Form HUD-5380) to applicants and residents of their rights and obligations under VAWA as well as the certification (Form HUD-5382) at the time of admission, along with any notice of denial, termination of assistance, or eviction.
    - The TSP should address how and when the notice and form will be provided to families.
    - The family has 14 business days to return the form or some other acceptable form of certification to the owner, who may extend the period at their discretion.

If the owner chooses to request an individual document their status as a victim, the owner must make such a request in writing. Individuals requesting protection cannot be required to provide additional third-party documentation, unless more than one person provides documentation claiming to be a victim. Otherwise, if the owner requests documentation, the applicant or tenant may submit one of the following:

- A signed HUD-5382
- A document signed by a "professional" and the applicant or participant that specifies that the professional believes that the occurrence is grounds for VAWA protection
  - A "professional" can be an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional, or a mental health professional.
- Federal, state, tribal, territorial, or police or court records
- A statement or other evidence provided by the individual, at the PHA or owner's discretion

FR Notice 1/4/23

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.

VAWA regulations also require owners to establish an Emergency Transfer Plan as part of their TSP and house rules.

- The ETP must provide for immediate transfer to a safe unit if one is available, and the client would not have to apply for a different program.
- The ETP must describe policies for emergency transfers of HCV participants, and the priority of VAWA transfers in relation to other transfers.
- The ETP must also include policies for transfers when a safe unit is not immediately available, including whether the client would or would not have to apply for a different program.

- The ETP must be made available upon request, or made publicly available. In addition, it must state that victims of sexual assault qualify for emergency transfers if:
  - The tenant (or their household member) is a victim of VAWA violence/abuse;
  - The tenant expressly requests the emergency transfer; AND
  - EITHER
    - The tenant reasonably believes that there is a threat of imminent harm from further violence, including trauma, if they or (their household member) stays in the same dwelling unit; OR
    - If the tenant (or their household member) is a victim of sexual assault, either the tenant reasonably believes that there is a threat of imminent harm from further violence, including trauma, if the tenant (or their household member) were to stay in the unit, or the sexual assault occurred on the premises and the tenant requested an emergency transfer within 90 days (including holidays and weekend days) of when that assault occurred.

All information provided to owners relating to domestic violence, dating violence, sexual assault, stalking, or human trafficking, including the victim's identity, must be kept in confidence and may not be entered into any shared database or provided to a related entity. The only exception to this is if the information is:

- Requested or consented to by the victim in writing
- Required for use in an eviction proceeding
- Otherwise required by applicable law

All documentation relating to domestic violence, dating violence, sexual assault, stalking, or human trafficking must be kept in a separate file in a secure location away from other resident files. Information may not be entered into any shared database or provided to a related entity. Notice H 2017-05 provides additional guidance for O/As. Appendix I of the notice should be reviewed against the O/A's VAWA policies.

APPLICANT REJECTION

HUD Handbook 4350.3, Paragraph 4-9

Owners must reject an applicant if the applicant:

- Is ineligible for occupancy in a particular unit or property
- The family owns real property that is suitable for occupancy by the family as a residence
- The family has assets in excess of the HUD-determine threshold amount (adjusted annually for inflation)
- Does not sign and submit verification consent forms or the forms HUD-9887 and HUD-9887-A
- Has a family size or characteristics that are not appropriate for the units available
- Includes family members who do not follow requirements related to citizenship status
  - Owners should permit families to revise their application to exclude such family members
- Provided false information
- Does not meet owner's tenant selection criteria

All applicants must be promptly notified in writing of a rejection or denial of assistance. All rejection notices must:

- Be in writing
- State the specific reasons the applicant was rejected
- State that the applicant has the right to respond to the owner within 14 days to dispute the rejection
  - Persons with disabilities have the right to request reasonable accommodations to participate in the termination meeting

The meeting with the rejected applicant must be conducted by a member of the owner's staff who was not involved in the initial decision to deny the applicant. The owner must respond in writing to the applicant with the final decision of eligibility no later than five days after the meeting.

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Obligations under the Fair Credit Reporting Act include the requirement that the owner must inform applicants that tenant screening reports play a role in rejecting applications. Owners must provide the applicant an adverse action notice, which must include:

- The name, address, and telephone number of the tenant screening company;
- Notice the applicant can receive a free copy of the report from the screening company within 60 days;
- That the applicant has the right to dispute any incorrect information on the report;
- That the screening company did not make the adverse decision and therefore cannot provide the specific reason for the decision.

HUD strongly encourages owners to provide a written adverse action notice as part of their rejected application notice, and provide the applicant with a copy of the report relied on to make the adverse determination.

Removing and Reinstating Applicants

Removal of any names from the waiting list must be documented with the time and date of the removal.

If the owner removes an applicant from the waiting list and then determines the removal was completed in error (e.g., incorrect address was used, applicant didn't respond to updates because of a disability), the applicant must be reinstated with their original date and time of application.

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Record Destruction and Retention

Owners must retain all current applications as long as the applicant's status on the waiting list is active.

When an applicant is taken off the waiting list, owners must retain the application, form HUD-92006, Existing Tenant Search, rejection notice, applicant reply, owner's final response, and all documentation supporting the removal reason for three years.

When an applicant becomes a resident, the owner must retain the application and form HUD-92006 in the resident file for the term of tenancy plus three years.

Any documentation submitted to the owner pertaining to a Department of Homeland Security (DHS) appeal must be retained for a minimum of five years.

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Section 10 Electronic Signatures, Transmission, and Storage

OVERVIEW

Notice H 2020-4 was issued May 20, 2020. HUD then reissued the notice under Notice H 2020-10 issued November 6, 2020. This notice provides guidance to HUD Multifamily assisted housing industry partners on electronic signatures, electronic transmission, and electronic storage of documents and forms required by HUD's Office of Asset Management and Portfolio Oversight (OAMPO).

Industry partners include:

- Owners and management agents (O/As) of HUD Multifamily assisted housing properties;
- Service providers; and
- HUD and Contract Administrator (CA) staff

The notice permits but does not require Multifamily owners to use electronic signatures (e-signatures), and to use electronic transmission and storage of files or documents. Owners who choose to adopt a policy that allows the use of e-signatures, transmission, and/or storage of documents must comply with federal, state, and local laws. If adopted, these policies need to be added to the Tenant Selection Plan, and possibly the EIV Policies and House Rules. Owners adopting the provisions in the notice must provide applicants and tenants the option to use "wet" signatures and paper documents upon request. The notice does not change the nature or use of HUD-required documents, and may be implemented at any time.

IMPACTED DOCUMENTS

Notice H 2020-10 issued November 6, 2020 pertains to all HUD forms and all owner-created documents and forms related to:

- Asset Management
- Section 8 contract renewals
- Occupancy policies

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While not required by HUD, some state and local laws may require that owners obtain wet signatures on certain forms. For instance:

- HUD-50059, Owner's Certification of Compliance with HUD's Tenant Eligibility and Rent Procedures
- HUD-9887, Document Package for Applicant's/Tenant's Consent
- Leases and lease addenda

These forms and state and local requirements may vary from state to state. HUD urges owners to consult with their legal counsel and obtain necessary information about state and local requirements for these types of documents.

E-SIGNATURE REQUIREMENTS

Notice H 2020-10 issued November 6, 2020 sets forth a signing process that complies with all federal e-signature laws related to:

- Electronic form of signature
- Intent to sign
- Association of signature to the record
- Identification and authentication of the signer
- Integrity of the signed record

ELECTRONIC TRANSMISSION

Owners may electronically transmit HUD-approved or required documents when local, state, or federal law permits. The Notice does not apply to documents required by lenders, other government agencies, or private concerns.

HUD and its CA may offer certain electronic transmission methods for documents. Owners should contact their HUD field office or CA to determine each agency's submission options and/or transmission preferences. HUD and CA staff may electronically transmit HUD forms and documents to the owner or to each other as state, local, or federal laws permit. Adequate security measures and choice of transmission method must ensure the security of sensitive information included in such documents.

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If an owner chooses electronic communication, applicants and tenants may also choose to communicate electronically with the owner.

- Their choice must be made affirmatively
- Not assumed with an opt-out procedure

Applicants and tenants may complete documents online or by hand and then transmit or scan them to the owner. They may also submit information and documents using online systems, tablet or smartphone apps, email, or other electronic media. However, the owner may designate specific methods as acceptable electronic transmission. If the owner adopts the provisions of Notice H 2020-10 issued November 6, 2020, applicants and tenants must have the opportunity to provide their information and documents in paper copy, including both before and after they have provided any information electronically, or after they have done so and wish to discontinue.

Owners may provide documents and notices electronically or make such documents available in an electronic format when state and local laws permit. If an owner chooses to provide documents electronically, the owner should inform applicants or tenants of their option to receive documents in paper form. If required forms, notices, and brochures are transmitted electronically, HUD recommends the owner request an electronic acknowledgment of receipt. Where HUD does not require an acknowledgment, the owner should still maintain records showing they provided the applicant or tenant with the information. Owners must always comply with tenant notification requirements in HUD Handbook 4350.3, program notices, and state and local laws. When state, local, or federal laws, guidance in the 4350.3, or H notices require that specific documents be provided by first class mail, delivered in person, or other specified means, those documents must be provided using the required procedures and not solely transmitted electronically.

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When transmitting documents electronically, industry partners must use National Institute of Standards and Technology (NIST) compliant methods. Examples include putting the documents inside an encrypted wrapper, such as a password-protected DOC, PDF, or ZIP file. Passwords should not be included in the same transmission as the documents. Best practice is to provide the recipient with the password by calling, texting, or in a separate email. HUD strongly recommends using an encrypted transfer mechanism such as a shared link with an encrypted cloud storage service, an encrypted mail service, or web-encrypted transfer tools.

EIV data stored electronically must be in a restricted access directory. If placed on portable media, it must be labeled appropriately and encrypted using an NIST Compliant Cryptographic Module. Similarly, all emails containing EIV data must be encrypted using an NIST compliant cryptographic module.

Other methods for transmitting data must meet HUD's security requirements. They may include but are not limited to the following:

- Removable electronic media, such as thumb drives or SD cards
- Direct access (i.e., providing login information to a system in order to access electronically signed and/or stored documents)
- Other compliant technology as developed

File and Document Storage

HUD forms and owner-created forms or documents may be stored electronically when state and local laws permit. Owners may do the following:

- Maintain paper files, electronic files, or a combination of both
- Convert paper files to electronic format

O/As are encouraged to consult legal counsel to determine when wet signatures are required by other federal, state, or local laws and/or agencies. All information stored electronically must be encrypted using an NIST compliant encryption solution. Access to electronic information must comply with the same requirements paper files.

- Owners must ensure they are secure; and
- Access to e-storage systems must be restricted to certain users based on specific HUD program guidance.

Industry partners must comply with special rules surrounding EIV or other documents, such as those pertaining to a tenant or applicant's VAWA status. Stored information must only be used for its intended purpose and will not be shared except by appropriate request. Proprietary information will not be shared with another entity. For example, a CA would not share an owner's rent comparability study with another owner.

Document Retention and Destruction

Owners should have a document or records retention policy to establish a protocol for retaining electronic data information for compliance needs. Owners must comply with program-specific document retention requirements. Retention requirements are the same for paper and electronic documents and records.

Data destruction is the process of destroying electronic data stored on electronic media, so that it is completely unreadable and cannot be accessed or used for unauthorized purposes. Industry partners must have policies and procedures in place to destroy records and data and must document when and how records and data are destroyed. For electronic data:

- Procedures must ensure that records and documents cannot be accessed once they have been destroyed.
- The type of destruction method used should correlate to the sensitivity of the data and HUD or other federal/state/local government requirements.

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For paper files:

- The O/A must dispose of paper files in a manner that will prevent any unauthorized access to personal information (e.g., burn, pulverize, shred, etc.).
- When converting paper files or documents to electronic format, prior to destroying the paper, the O/A must check local and state laws to determine if hard copies with wet signatures must be retained or whether a printout of an electronic document with a verifiable electronic signature is acceptable.

HUD Review Impact

Reviews conducted by HUD or the CA in compliance with HUD's guidelines may involve reading files electronically (when available). The files must be provided in compliance with HUD or other federal/state/local government security access requirements. Owners may continue to furnish documents in paper format if they prefer.

Regulatory Restrictions: Notices

Some regulations require some notices to tenants be sent by first class mail, delivered directly to tenants or their units, or posted in public spaces. In these situations, electronic communication does not satisfy the requirement. For example, these notices would not be emailed or posted on a website. Notice H 2020-10 issued November 6, 2020 lists some examples of these notices, such as termination notices, changes in house rules or pet rules, etc. When a tenant is provided a notice in paper form, if the owner maintains electronic tenant files, they must scan and store an electronic file of the tenant notification in the tenant's file.

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Accessibility of Electronic Media

Section 504 of the Rehabilitation Act of 1973 and Titles II and III of the Americans with Disabilities Act (ADA) require effective communication with individuals with disabilities and prohibit Electronic and Information Technology (EIT) imposed barriers to accessing information, programs, and activities by persons with disabilities. Owners must provide appropriate auxiliary aids and services necessary to ensure effective communication, which includes ensuring that information is provided in appropriate accessible formats as needed, such as Braille, assistive listening devices, sign language interpreters, accessible websites, and other electronic communications as a reasonable accommodation.

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Section 11 Affirmative Marketing

HUD Handbook 4350.3, Chapter 4, Section 2

All Multifamily properties must be affirmatively marketed to populations least likely to apply. Properties built or substantially rehabilitated since July of 1972 must develop and abide by an affirmative fair housing marketing plan (AFHMP). Properties built or rehabilitated before February of 1972 are not required to develop or abide by an AFHMP unless it is required by a housing assistance contract.

All properties must prominently display and maintain the Equal Housing Opportunity poster (fair housing poster) in accordance with HUD requirements at 24 CFR Part 110.

Every multifamily property must develop and use an AFHMP that has been approved by HUD or the contract administrator (CA). Each property's AFHMP must be completed on the current version of form HUD-935.2A. The AFHMP is designed to promote equal housing choices for all prospective residents and to ensure that eligible families of similar income levels will have a similar range of housing opportunities.

Each property's AFHMP should be written to attract a broad range of the eligible population. After HUD or the CA has approved the property's AFHMP, the owner must use the advertising methods described in the plan anytime additional applicants are needed to fill available units. Owners must be able to produce information documenting their compliance with their approved plan. Owners should only include marketing strategies and actions that will be used at the property because the owner is expected to perform all activities listed in the AFHMP. Marketing efforts and documentation are subject to review by HUD or the CA as part of the management and occupancy review (MOR). Documentation includes copies of media and marketing materials, records of marketing activities, and documentation of any special marketing activities conducted in accordance with the property's AFHMP.

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Owners must outline their marketing strategies in the AFHMP, including special efforts to attract persons who are least likely to apply. For example, there may be minority groups that are least likely to apply because of the racial and ethnic composition of the neighborhood where the property is located. Owners should seek to reach applicants outside the immediate neighborhood of the project with their marketing efforts and must monitor the results of marketing efforts to adjust techniques used as necessary.

ADVERTISING

As part of the AFHMP, the owner must also publicize the availability of housing to all persons and those least likely to apply:

- Take place in the media most likely to be used by applicants
  - This means including minority publications or other minority outlets available in the housing market area
- Be targeted to groups other than the typical population of the neighborhood where the property is located
- Include either the HUD-approved Equal Housing Opportunity logo, slogan, or statement

The owner must advertise to all potential applicants in the area who are least likely to apply:

- At the time of lease up
- When a unit is available but cannot be filled with applicants from the waiting list
- When there is not a waiting list

UPDATING THE AFHMP

The AFHMP must be reviewed every five years or when the local community development jurisdiction's consolidated plan is updated. Anytime the AFHMP is updated, it must be submitted to and approved by HUD or the CA before use. If the owner finds that the AFHMP does not need to be revised, they should maintain a file documenting what was reviewed, what was found, and why no change was required. HUD or the CA may review this information during a compliance review.

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Learning Activity 2-1: Selecting Applicants from the Waiting List

Happy Valley Apartments is a 56-unit Project-Based Section 8 (PBRA) property located in Kitsap County, Washington. Happy Valley received notification on January 1st that a resident household in a three-bedroom nonaccessible unit will be vacating the property on January 31st.

Based on historical vacancy information and screening procedures, it is Happy Valley's policy to pull the first three households from the waiting list and begin the screening process for each unit that becomes available. Happy Valley has already met income-targeting requirements for the fiscal year and may admit households with income levels up to the low-income limit.

Happy Valley has owner-adopted preferences and ranks all applicants on the waiting list using a points system. Applicants are ranked based on the following:

- 0 points: Standard applicant who does not qualify for any preference
- 1 point: Employed families
- 2 points: Victims of domestic violence

Applicants who qualify for the highest number of points will be placed on the top of the waiting list. Among applicants with the same number of points, date and time of application will be used.

KITSAP COUNTY INCOME LIMITS

Low-Income (80%) LIL							
1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
40,000	45,700	51,400	57,100	61,700	66,250	70,850	75,400
Extremely Low-Income (30%) ELI							
1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
15,000	17,150	19,300	21,400	23,150	24,850	26,550	28,250

The first three applicants on the three-bedroom waiting list are:

1. Patterson
    - Application received on December 15, 2013 at 9:15 AM
    - Four household members
    - Annual income of $37,000
    - Household qualifies for employment preference
    - Household requires a fully accessible unit

2. Hastings
    - Application received on January 4, 2014 at 12:42 PM
    - Four household members
    - Annual income of $24,000
    - Household qualifies for employment preference
3. Choates
    - Application received on November 21, 2013 at 8:56 AM
    - Three household members
    - Annual income of $5,736
    - Household does not qualify for any preferences

Based on the property and applicant information above, answer the following questions:

1. Why are the Pattersons ranked ahead of the Choates on the waiting list if the Pattersons' application date is later?
    a. Need for an accessible unit
    b. Data entry error
    c. Employment preference
    d. None of the above
2. Which households are income-qualified for Happy Valley? Check all that apply.
    a. Household 1
    b. Household 2
    c. Household 3
3. If all three applicant households are determined to be eligible for the available unit, which household must be offered the unit first?
    a. Household 1
    b. Household 2
    c. Household 3

    Why?

4. Happy Valley Apartments must screen all applicant household members for (check all that apply):
   a. Disability status
   b. Registration as a lifetime sex offender
   c. Credit history
   d. Evictions from federally assisted housing for drug-related criminal activity within the last three years

The Pattersons came to the initial screening interview at Happy Valley and the manager learned that the household no longer qualified for the employment preference.

5. Would the household still be first on the waiting list?
   a. Yes
   b. No
6. Would the household be removed from the waiting list because they no longer qualify for the preference?
   a. Yes
   b. No
7. At this point, which household would be first on Happy Valley's waiting list?
   a. Patterson
   b. Hastings
   c. Choates

   Why?

Section 12 Chapter 2 Post Test

1. When must HUD approve the owner's tenant selection plan?
   a. Annually
   b. When a residency preference or homeless preference is adopted
   c. When the owner makes changes to the plan
   d. Never

2. The AFHMP must be reviewed and/or updated and approved by HUD at least every 5 years, or when the local community development jurisdiction's consolidated plan is updated, and any time the owner sees the need to update the marketing practices for the property.
   a. True
   b. False

3. While HUD does not specify the number of persons that may reside in units of a particular size, there are some general guidelines that owners must follow.
   a. True
   b. False

4. The owner must establish standards in the TSP that prohibit admission in the following circumstances:
   a. A household member is currently engaging in illegal drug use
   b. A household member was evicted from federally assisted housing for drug-related criminal activity in the last three years
   c. A household member has engaged in any criminal activity in the last five years
   d. Both a and b

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5. At lease signing, who must sign the VAWA Lease Addendum (Form HUD-91067)?
   a. The head of household
   b. The spouse or cohead
   c. Other adult household members 18 years or older
   d. All of the above

6. When a household has been offered a transfer to an appropriately sized unit, the owner may not terminate assistance until the household has been given no fewer than 30 days to move to the new unit.
   a. True
   b. False

7. For each property assisted under a project-based Section 8 contract, no less than 40 percent of the dwelling units must be leased to extremely low-income households in the property's fiscal year. The TSP must detail how and when applicants will be skipped on the waiting list to meet the income targeting requirements.
   a. True
   b. False

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Notes

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CHAPTER 3 Eligibility

Section 1 Learning Outcomes and Overview

LEARNING OUTCOMES

Upon completion of this chapter, you should be able to:

- Recall how citizenship status affects eligibility
- Examine social security number requirements for applicants and individuals who are added to the unit
- Apply income limits at different property types
- Recognize requirements for the verification of student status
- Discuss family composition as it relates to eligibility and unit size
- Recall the sole residency restriction
- Apply the asset limitation on eligibility for assistance
- Examine requirements for elderly/disabled properties
- Identify required consent and verification forms used to determine eligibility

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Section 2 Overview

Based on HUD regulations, program eligibility is determined at the time of move-in or at the time of an initial certification. Owners are required to determine program eligibility and property eligibility for all potential residents before the household or any new household member moves in to the unit or begins receiving assistance. Program eligibility is the determination that the applicant family qualifies for the program and qualifies to receive housing assistance. Eligibility for HUD programs is based on federal statute and HUD regulations.

PROPERTY ELIGIBILITY

Property eligibility is different than program eligibility in that it is the determination that the applicant family qualifies to reside in a specific property. Households may be program eligible but not property eligible based on three factors that may affect the household's property eligibility:

- The property is designated for specific family types such as elderly or disabled families
- The family is not eligible because of their family size and the owner's occupancy standards (the unit would be overcrowded or underutilized)
- The family wants to use a Section 8 housing choice voucher (HCV) in a property that is already subsidized with Section 8 assistance

Each applicant family must be both eligible for the program and meet property-specific requirements.

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RAD PBRA: No Rescreening upon Conversion

Current households living in units that convert to PBRA under RAD are not subject to rescreening, income eligibility, or income targeting provisions. Households are grandfathered in for conditions that occurred prior to conversion but will be subject to ongoing eligibility requirements for actions that occur after conversion. All in-place tenants at the time of conversion are eligible to remain in the unit and receive assistance. This applies to current PH residents of the converting project that will live in non-RAD PBRA units placed in a project that has RAD PBRA units. These families will otherwise be subject to all requirements of the applicable program, specifically the PBRA requirements governing the applicable contract for non-RAD PBRA units. The owner should develop a way of identifying existing households who were housed prior to RAD conversion. Once the remaining household moves out, the unit must be leased to an eligible family.

For any public housing residents with outstanding debt, PHAs may not enter the debt into the "Debts Owed" module as a result of the End of Participations that are required to be submitted to PIC as part of the conversion.

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Section 3 Restriction on Assistance to Noncitizens

OVERVIEW

24 CFR 5.506 (a), 24 CFR 5.512(a) and (b), 24 CFR 5.514(c)

Assistance is restricted to U.S. citizens or nationals and eligible noncitizens in the following programs:

- Section 8
- Section 236
- Rent Supplement
- Rental Assistance Payment (RAP)
- Section 202/8

These requirements do not apply to:

- Section 221(d)(3) BMIR
- 202 PAC, 202 PRAC
- 811 PRAC
- Section 202 projects where units do not receive assistance under the Rent Supplement or Section 8 programs

Under the regulations governing restriction on assistance to noncitizens, applicant families may not receive assistance until the owner establishes the eligibility of at least one family member. Unless there is a change in family composition, owners typically only review citizenship status for each family member once as part of the initial eligibility determination, unless the status of an individual household member changes.

NOTIFICATION

24 CFR 5.502 and 24 CFR 5.508(f)

All members of the applicant family must submit a declaration of their citizenship status and appropriate verification no later than the time the owner initiates the verification process for eligibility. If the applicant certifies that documentation of their citizenship status is temporarily unavailable and additional time is needed, the owner may grant an extension of 30 days or less.

The owner must notify all families of the requirement to submit evidence of their citizenship status when they apply.

ELIGIBILITY FOR ASSISTANCE

24 CFR 5.500

In order to determine the family type and eligibility for assistance, each individual in the family, regardless of age, must declare their citizenship or immigration status and submit appropriate documentation of their status, where required. Individuals will fall into one of three categories:

- Eligible citizen or national
- Eligible noncitizen
- Ineligible noncitizens, including noncitizen students on student visas
    - Providing housing assistance to noncitizen students is prohibited. This prohibition extends to the ineligible noncitizen spouse of a noncitizen student as well as to minor children who accompany or follow to join the noncitizen student. The 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.

FAMILY CATEGORIES

After the status of each individual in the family has been determined, families will fall into one of three categories:

- All members are either citizens or eligible immigrants
- Some members are eligible and some are ineligible
- All members are ineligible

24 CFR 5.504(b) and 5.506(a)

An **eligible family** will be comprised of citizens, nationals, or noncitizens with eligible immigrant status. Eligible families receive full assistance.

24 CFR 5.504(b) and 5.506(a)

An **ineligible family** is one in which no member is a citizen, national or eligible immigrant. Ineligible families are denied assistance.

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24 CFR 5.504(b)

A **mixed family** is comprised of citizen(s) or eligible noncitizen(s) and those without citizenship or eligible noncitizen status. Mixed families receive prorated assistance. For example, in a family of five where four members have eligible immigration status, and one member is ineligible, the family would receive 4/5 of full assistance.

VERIFICATION

24 CFR 5.508, HUD Handbook 4350.3, Chapter 3, p. 3-25

Verification requirements differ depending on the individual's status. All family members, regardless of age, must provide appropriate documentation:

- Persons who claim citizenship or national status execute a signed declaration of citizenship status.
  - This is the minimum requirement, and the owner may require additional verification, as long as it is applied consistently and outlined in the TSP.

24 CFR 5.508(b)(1)

  - Owners may establish a policy in the TSP requiring verification of either U.S. citizenship or national status in the form of a U.S. passport, resident alien card, registration card, social security card, or other appropriate documentation.
  - HUD strongly encourages O/As to require a U.S. birth certificate, naturalization certificate, or U.S. passport to demonstrate proof of citizenship.

24 CFR 5.508(b)(2)

- Persons 62 and older who claim eligible immigration status execute a signed citizenship declaration and provide proof of age.

24 CFR 5.508(e)

- Persons who declare themselves ineligible or don't contend to have eligible status sign a statement acknowledging their ineligibility for assistance

24 CFR 5.508(b)(3)

- Noncitizens under the age of 62 who claim eligible immigration status are required to submit:
  - A signed declaration of eligible immigration status
  - A United States Citizenship and Immigration Services (USCIS) card or other USCIS document

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- A signed verification consent form to allow the owner to access the Multifamily Systemic Alien Verification for Entitlements (SAVE) system
  - Owners are required to verify with the Department of Homeland Security (DHS) the validity of the documents provided by applicants through the SAVE system.
  - Owners may not delay the family's assistance if the family submitted its immigration documentation in a timely manner but the DHS verification or appeals process has not been completed.
    - If at least one family member has been determined eligible, the owner must offer the family a unit. Owners may wish to verify citizenship status in advance of other verification efforts.

Samples of the Owner's Notice, Exhibit 3-3; Owner's Summary of Family, Exhibit 3-7; the Family Summary Sheet, Exhibit 3-4; and the Citizenship Status Declaration, Exhibit 3-5, can be found in *HUD Handbook 4350.3.*

Owners are required to notify families in writing if they are found to be ineligible based on citizenship/immigration status. Owners may notify eligible families or mixed families of their status, although this is not required. Sample notifications can be found in *HUD Handbook 4350.3, Exhibits 3-8 and 3-9*.

Owners must determine the citizenship/immigration status of residents at annual or interim recertification only if:

- Proper documentation was not collected previously or the documentation collected suggested that the residents status was likely to change
- If the status of a family member in a mixed family changes from ineligible to eligible
- Any new family member joins the household; the new member must disclose and provide citizenship documentation

Section 4 Social Security Number Disclosure

OVERVIEW

24 CFR 5.216

The regulations governing disclosure and verification of social security numbers were revised effective January 1, 2024. While applicants and residents must disclose and provide SSN documentation under the new regulations, the actual verification of SSNs is performed by the owner through HUD's automated systems. The regulations also provide penalties for failure to disclose or document SSNs.

All assisted applicants and residents must disclose and document a complete and accurate SSN for each member of the household, including foster children, foster adults, and live-in aides. Children under the age of six are no longer exempt from the requirement.

EXEMPT INDIVIDUALS

Some household members are exempt from the SSN disclosure requirement. These include:

- Individuals who do not contend eligible immigration status ("noncontending" family members in a mixed family paying prorated rent).

24 CFR 5.216(a)

- Current residents who had not previously disclosed an SSN, and who were at least 62 years old on January 31, 2010. The exemption applies at all future recertifications, and continues if the individual transfers to a new unit or receives another form of housing assistance.
- Household members who have already provided a valid SSN prior to January 31, 2010. The new regulations do not require the owner/agent to reverify the SSNs of current residents whose SSNs have been validated through HUD's automated systems.

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24 CFR 5.216(e)

Note that an individual who previously declared to have eligible immigration status may not change his or her declaration for the purpose of avoiding compliance with the SSN disclosure and documentation requirements or penalties associated with noncompliance with these requirements.

Individuals who do not contend eligible immigration status and have applied for assistance at a section 221(d)(3) BMIR, 202 PAC, 202 PRAC, or 811 PRAC properties are not subject to SSN disclosure requirements. The applicant must only sign a certification that contains the penalty of perjury clause certifying to that effect.

Meaning of the Letters After a Social Security or Medicare Number

Code	Identification	Code	Identification
A	Primary claimant (wage earner	E5	Surviving divorced father
B	Aged wife, age 62 or over	F1	Parent (father)
B1	Aged husband, age 62 or over	F2	Parent (mother)
B2	Young wife, with a child in her care	F3	Stepfather
B3	Aged wife, age 62 or over, second claimant	F4	Stepmother
B5	Young wife, with a child in her care, second claimant	F5	Adopting father
B6	Divorced wife, age 62 or over	F6	Adopting mother
BY	Young husband, with a child in his care	HA	Disabled claimant (wage earner)
C1-C9	Child - Includes minor, student or disabled child	HB	Aged wife of disabled claimant, age 62 or over
D	Aged widow, age 60 or over	M	Uninsured – Premium health insurance benefits (Part A)
D1	Aged widower, age 60 or over	M1	Uninsured – Qualified for but refused health insurance benefits (Part A)
D2	Aged widow (second claimant)	T	Uninsured – Entitled to HIB (Part A) under deemed or renal provisions, or fully insured who have elected entitlement only to HIB
D3	Aged widower (second claimant)	TA	Medicare Qualified Government Employment (MQGE)
D6	Surviving divorced wife, age 60 or over	TB	MQGE aged spouse
E	Surviving mother	W	Disabled widow
E1	Surviving divorced mother	W1	Disabled widower
E4	Widowed father	W6	Disabled surviving divorced wife

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TIMEFRAME FOR DISCLOSURE

If all members of the applicant household have not disclosed and provided SSN documentation at the time a unit becomes available, the next eligible applicant on the property's waitlist must be offered the unit. If the owner has determined the household is otherwise eligible, the applicant household may stay on the waitlist for 90 days from the date of the first unit offer while trying to obtain the required documentation. If the applicant household is unable to disclose SSNs and supply the owner with the proper documentation, the applicant is ineligible and removed from the property's waitlist.

Notice H 2016-09 explains that there are certain circumstances in which residents must provide SSNs after initial occupancy:

- If the SSN was not previously disclosed or verified
- An invalid SSN was provided, as shown by EIV Pre-Screening or Failed Verification report
- A household member has been assigned a new SSN
  - The new SSN must be disclosed to the owner with documentation at the time of receipt, and the owner will process a non-interim recertification to add the number to the 50059.
- Addition of a new household member
  - When adding a new household member age six or older, or under the age of six with an assigned SSN, the SSN must be provided to the owner either at the time of the request or at the time of the recertification to add the new household member.
  - If the household member is under the age of six and does not yet have an assigned SSN, the resident must disclose the SSN and provide documentation within 90 days of the member being added to the household. The owner must add the child to the household and a TRACS ID will be assigned to the child until an SSN is provided.

DOCUMENTATION AND VERIFICATION

24 CFR 5.216(g)

The household may provide several forms of documentation. For each household member, the applicant or resident family may provide any of the following:

- An original social security card issued by the Social Security Administration.
- Documentation issued by the Social Security Administration that contains the name and SSN of the individual (e.g., a benefit award letter, Medicare card, or printout).
- An original document showing the individual's name and SSN, issued by a federal, state, or local government agency. This could include welfare agency documents, military papers, unemployment insurance documents, or any other government-issued documentation. See HUD Handbook 4350.3 Appendix 3 for a full list of acceptable documents.

However, in Notice H 2023-10, HUD adjusted what is acceptable documentation of SSNs to make it easier for applicants to access programs even if they do not have access to their Social Security card or other documentation acceptable to HUD.

- Owners must still attempt to gather third-party verification of SSN prior to admission; however, they will also have the option of accepting a self- certification and a third-party document such as a bank statement, utility or cell phone bill, benefit letter, etc. with the applicant's name printed on it to satisfy the SSN disclosure requirement if the owner has exhausted all other attempts to obtain the required documentation.

The owner may reject documents that are not original, appear to be forged, or appear to be altered, mutilated, or not legible.

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 owner 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.

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Section 5 Income Eligibility

HUD publishes income limits for each county or Metropolitan Statistical Area (MSA) and are based on the median income for the area. The goal is to ensure that federal rental assistance is provided only to low-income families. The published income limits are based on family size and annual income. There are four different income limits used to determine eligibility based on the type of subsidy available at the property and the family size.

HUD Handbook 4350.3, Figure 3-2

Income Limit	Median Income
BMIR Income Limit	95% of median income
Low-Income Limit	80% of median income
Very Low-Income Limit	50% of median income
Extremely Low-Income Limit	30% of median income

Sample Section 8 income limit chart for Kitsap County, WA:

FY 2026 Income Limit Area	Median Income	FY 2026 Income Limit Category	Persons in Family I	Persons in Family 2
Kitsap County	$74,600	30% Extremely Low	15,700	17,950
		50% Very Low	26,150	29,850
		80% Low	41,800	47,800

APPLYING INCOME LIMITS

Owners must determine income eligibility before approving an applicant for move in or initial certification using the current income limit for that year and are required to report each assisted resident's income information to HUD at least annually. Income limits are applied only at the initial or move-in certification. If a resident experiences an increase in income after admission, they may continue to receive assistance as long as they continue to qualify for assistance under the applicable program rules.

All Section 8 properties must use either the low (80 percent) or very low-income (50 percent) limit and must use the extremely low-income limit for income targeting. The income limit used at the property is based on the date of the property's initial Housing Assistance Payment contract (HAP).

Projects with HAP contracts initially effective on or after October 1, 1981, must admit only very low-income families (50 percent) unless HUD has approved an exception to admit families whose incomes are above the very low-income limit.

Projects with HAP contracts initially effective prior to October 1, 1981, may admit families up to the low-income limit (80 percent).

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HUD HANDBOOK 4350.3, FIGURE 3-3

Subsidy	Type of Income Limit
Section 8 (pre-1981)	Section 8 (pre-1981) Low, very low, and extremely low-income limit
Section 8 (post-1981)	Section 8 (post-1981) Very low and extremely low-income limit
Section 236	Section 236 Low-income limit
Rent Supplement	Rent Supplement Low-income limit
Rental Assistance Payment (RAP)	Rental Assistance Payment (RAP) Low-income limit
Section 202 without assistance	Low-income limit See paragraph 3-6.D.3 of HUD Handbook 4350.3 for exceptions
Section 202 with Section 8 assistance	Pre-1981: Low, very low, and extremely low-income limit Post-1981: Very low and extremely low-income limit
Section 202 with Rent Supplement	Low-income limit
Section 202 PACs	Low-income limit
Section 202/811 PRACs, except those funded in FY 1995	Very low-income limit
Section 202/811 PRACs funded in FY 1995	Low-income limit
Section 221(d)(3) BMIR	BMIR income limit

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Applying Income Limits

After the correct income limit schedule has been determined, the owner will then need to determine what limit to apply to the applicant based on family size. All household members living in the unit, including temporarily absent family members, must be counted when establishing income limits with the exception of live-in aides, foster children, and foster adults.

A family is income eligible if their gross annual income before any deductions is less than or equal to the income limit used for that family size. The family must also require assistance. In other words, the rent amount the family pays must be less than the gross rent for the unit. If no HAP will be paid on the family's behalf when they are initially assisted, the family is not eligible. Income eligibility determinations may not be based on a lack of income. Zero income households are eligible for rental assistance.

Household Members

When determining family size for comparison to the income limit, owners must count certain family members who may not be currently living in the unit, including:

- Children who are temporarily absent due to placement in foster care
- Children who are in a joint custody situation and are present in the assisted unit 50 percent or more of the time
- Children who are away at school but live with the family during school breaks, including summer, holidays, spring break, etc.
- Unborn children of pregnant women
- Children who are in the process of being adopted
- Temporarily absent family members who are still considered part of the family (e.g., a household member who is working in another state on a project or assignment)
- Family members in the hospital or a rehabilitation facility for periods of limited or fixed duration

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When determining family size for income eligibility, the owner does not include:

- Live-in aides
- Foster children
- Foster adults

ADMISSION OF OVER-INCOME APPLICANTS

When the owner is unable to lease units to income eligible families, the owner may admit families with incomes that exceed the limit with prior written approval from HUD. See Exhibit 3-1 in HUD Handbook 4350.3 for specific requirements for requesting an exception.

RAD PBRA: Income Limits

Properties converting under RAD are to be treated as Pre-1981 HAP contracts meaning owners may admit families up to the low-income limit (80 percent).

Current households at the time of conversion are not subject to income eligibility. A unit with a household that was over-income at the time of conversion would continue to be treated as an assisted unit.

In order to facilitate the right to return to the assisted property, this provision will also apply to current public housing residents of the converting project that will reside in non-RAD PBRA units placed in a project that contain RAD PBRA units. These families and contract units will otherwise be subject to all requirements of the applicable program, specifically the PBRA requirements governing the applicable contract for non-RAD PBRA units. MTW agencies may not alter this requirement.

Under normal PBRA rules, any new move-in must be both income eligible and eligible for HAP, which means their TTP may not equal or exceed the Gross Rent for the unit at that time.

However, under RAD PBRA rules HUD established an alternative rent requirement. HUD requires that families with a TTP that equals or exceeds gross rent who would otherwise qualify for assistance in the unit, must be admitted and allowed to occupy the unit. This applies to both in-place families and new move-ins after conversion.

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RAD PBRA: Income Limits (cont.)

For residents living in the Converting Project prior to conversion and for all new admissions, HUD has established that, during any period when the family's TTP is equal to or above the Gross Rent, the zero-HAP family will pay an alternate rent to owner that is the lower of:

a. TTP minus the Utility Allowance (UA) (subject to any required phase-in per Notice H 2023-08); or

b. The Zero-HAP Rent Cap, which is the lower of either:

i. The applicable FMR minus the Utility Allowance; or

ii. In the event the units are subject to more restrictive rent setting requirements under another federal, state, or local program (e.g. LIHTC or HOME), the rent to owner set to comply with such requirements.

Note: If the "lesser of test" results in a Zero-HAP Rent Cap that is below the gross rent, then TTP is capped at the gross rent for the unit.

Tenants will retain all of the rights under the Model Lease. Additionally, tenants will still be subject to the requirements for Section 8 tenants, including the requirements concerning recertification of family income and composition. When TTP equals or exceeds Gross Rent, the Zero-HAP Rent Cap collected by the Project Owner is considered project funds and must be used for project purposes. Subsidy may subsequently be reinstated if the tenant becomes eligible for subsidy.

The Project Owner is not required to process these individuals through TRACS but may be required to do so when TRACS 203.A is implemented. All normal actions for the contract rent in TRACS continue for these units, including application of the OCAF adjustment to the contract rent indicated in the HAP Contract, since the OCAF adjusted rent will still be in effect whenever the unit is occupied by a family eligible for rental subsidy.

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RAD PBRA: Income Limits (cont.)

Example RAD Over-Income (OI) Families:

FY 2026 Income Limit Area 80% Low Income Limit 2 Person Family

Kitsap County $53,440

FMR for 1BR $ 1,253

The contract rent for the unit is $1,000, and the UA is $25.

Don and Kendra are moving in to a Section 8 MF property. Their gross annual income is $52,000 (under the income limit).

Their TTP is $1,300 (over the gross rent for the unit).

The family's rent would be the lower of:

1. $1,300 (TTP) - $25 (UA) = $1,275 (Family's rent); or
2. $1,253 (FMR) - $25 (UA = $1,228 (Family's rent); or
3. In the same scenario, if the property also had LIHTC on the unit with an 60% set aside, and the LIHTC max rent for the 60% unit was $1,300, the family's rent would be the lower of the three possible numbers, which is $1,228, the FMR - UA calculation.

LIHTC Max rent = $1300

FMR- UA= $1228

TTP-UA= $1275

Tenant Rent would be: $1228

Section 6 Students Status

OVERVIEW

Effective January 1, 2006, congress imposed a restriction on housing assistance to students in the Section 8 program. As a result, student eligibility must be determined at move-in or initial certification, recertification, and when any interim recertification is processed as a result of a household member enrolling as a student.

RESTRICTIONS ON ASSISTANCE

24 CFR 5.612

Individuals may not receive Section 8 assistance if they are enrolled as a part-time or full-time student at an institution of higher education for the purpose of obtaining a degree, certificate, or other program leading to a recognized educational credential and are:

- Under the age of 24; and
- Not married; and
- Not a veteran; and
- Do not have a dependent child; and
- Not a person with disabilities, as defined in 3(b)(3)(E) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(3)(E)) and were not receiving section 8 assistance as of November 30, 2005; and
- Not living with their parents who are receiving assistance; and
- Not individually eligible to receive Section 8 assistance or has parents (the parents individually or jointly) who are not income eligible to receive Section 8 assistance.

In other words, if the student does not meet any of the above exceptions, both the student and their parents must be income eligible, unless the student can demonstrate the absence of or independence from their parents.

To demonstrate independence from their parents, all of the following requirements must be met:

- The student must be of legal contract age under state law (18 in most states)
- The student must establish a separate household from their parents for at least one year before applying for assistance or meet the U.S. Departments of Education's definition of an *independent student* (Dorms do not count toward the 1-year requirement)
- Their parents must not have claimed the student as a dependent on their taxes
- The student must provide a certification of assistance from parents stating the amount of financial assistance they will receive
    - This must be completed even if the student will not receive any assistance from their parents
- Note that if the owner determines that the student meets the definition of vulnerable youth, such a determination is all that is necessary determine that the person is an independent student for the purposes of using only the student's income for determining eligibility for assistance.
    - Vulnerable youth is defined as an individual who meets the U.S. Department of Education's definition of independent student in paragraphs (b), (c), or (h), as adopted in Section II of FR Notice 9/21/16.

In the Rent Supplement, RAP, Section 221(d)(3) BMIR, Section 236, Section 202 PAC and PRAC, and Section 811 PRAC, students must meet all of the above criteria to be eligible. The Section 8 student rule, however, does not apply in these programs, and the parental income test does not need to be applied to determine eligibility.

If any student in the applicant family is ineligible, the owner must deny assistance for the entire family. If the owner finds that an ineligible student is part of any assisted household, the owner must terminate the entire household's assistance, but may not evict the household or student as long as all members of the household adhere to the terms of the lease and house rules.

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VERIFICATION

When determining the income eligibility of a student's parents, the owner may accept a signed declaration and certification of income from the parents. However, if the verification received is questionable, the owner may request further income documentation from the student's parents such as tax returns, pay check stubs, bank statements, SSA award letters, etc.

The owner may need to obtain verification from parents either jointly or separately. If the student cannot or does not know how to contact one of the parents, the owner may accept a certification from the student explaining such circumstances.

The owner must use the low-income limit (80 percent) for the parent's family size in the location where the parents live. If parents live outside of the United States, the owner should use the low-income limit for the parent's family size where the student has applied to receive assistance.

There may be circumstances when the student's parents refuse to provide any documentation; in these cases, students are ineligible to receive assistance unless the student can prove independence.

In order to verify a student's independence, the owner must:

- Review and verify the student's previous address to ensure that there is evidence of a separate residence
- Ensure the student meets the U.S. Department of Education's definition of an *independent student*
- Review the student's prior year tax returns to make sure the student's parents did not claim the student as a dependent
- Obtain a certification that will serve as verification whether the student's parents are providing financial support to the student
  - Except in cases in which the owner determines that the student meets the definition of *vulnerable youth*
  - If support is provided, it must be counted as income.
- Verify all amounts of financial assistance received by the student and the amount of tuition
- Verify that the school attended meets the Department of Education's definition of an institution of higher education
- Verify any exceptions to the student rule that the student has claimed

Learning Activity 3-1: Family Screening

Happy Valley Apartments is a 100 percent Section 8-assisted Multifamily property that has two and three-bedroom units. A two-bedroom unit will be available for a new resident family at the end of the month. Per Happy Valley's TSP, three applicant families are pulled from the waitlist for screening for each available unit. Happy Valley has not yet reached the 40 percent income targeting requirement for the fiscal year. The following households have been pulled from the waitlist:

1. Niece Family: Applied on 3/15/26

	Relation	Age	Citizenship	Student Status
Nancy Niece	H	35	EC	FT
Ned Niece	S	32	EC	FT
Nanette Niece	D	14	EC	
Nelly Niece	D	11	EC	
The family qualifies under the very low-income limit (50%) but is above the extremely low-income limit.				

2. Choate Family: Applied on 3/16/26

	Relation	Age	Citizenship	Student Status
Brenda Choate	H	20	EC	PT
Wanda Walker	K	20	EC	PT
The family qualifies under the very low-income limit (50%) but is above the extremely low-income limit.				

3. Hastings Family: Applied on 3/18/26

	Relation	Age	Citizenship	Student Status
Harry Hastings	H	42	IN	
Holly Hastings	D	15	EN	
The family qualifies under both the very low-income and extremely low-income limit.				

TRACS Relationship Codes	
H	Head
S	Spouse (There can either be a spouse or a co-head, but not both.) There can be only one spouse
K	Co-head (There can either be a spouse or a co-head but not both.) There can be only one co-head.
D	Dependent - See Paragraph 5-10.A of the 4350.3 REV-1.
F	Foster child under the age of 18 or the child of a Foster child or Foster adult. See Paragraph 5-6.A of the 4350.3 REV-1
L	Live-In Attendant
N	None of the Above. Others Living in the Unit Who are not Members of the Tenant Family

Citizenship Status Codes	
EC	Eligible Citizen
EN	Eligible Noncitizen
IN	Ineligible Noncitizen

1. Based on their citizenship status, what family category does the Hastings family fall into?
   a. Eligible family
   b. Ineligible family
   c. Mixed family

2. In order to meet income targeting requirements, which family must the owner select for the next available unit?
   a. The Hastings
   b. The Nieces
   c. The Choates

3. Is the Niece family eligible to receive assistance based on their student status?
   a. Yes
   b. No, because both the head and spouse are students at an institution of higher education
   c. Maybe, the owner would have to determine whether they were either independent students or their parents were income eligible where they live

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4. Is the Choate family eligible to receive assistance based on their student status?
   a. Yes, one of the family members is not a student and the other two are only part-time students
   b. No, because Brenda and Wanda don't appear to qualify for any of the exceptions, the owner must deny the family
   c. Maybe, because Brenda and Wanda don't appear to qualify for any of the exceptions, the owner would have to determine whether they were either independent students or their parents were income-eligible where they live

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Section 7 Family Composition

OVERVIEW

HUD Handbook 4350.3, Section 3-27

As part of the application process, the family must disclose who will reside in the unit as a member of the household. The owner is not required to verify family composition (or family relationships), but may choose to do so if they establish a clear, written policy in the TSP. The most common reasons an owner would verify family composition include to determine:

- Whether a child or children are present in the unit 50 percent or more of the time and determine the appropriate unit size
- If a household member has moved out of the unit

If the owner establishes a policy to verify family composition, the following documents may be provided by the applicant as verification:

- Birth certificates
- Custody agreements
- Divorce actions
- Drivers' licenses
- Employer records
- Income tax returns
- Marriage certificates
- School records
- Social Security Administration records
- Social service agency records
- Support payment records
- Utility bills
- Veterans Administration (VA) records

LIVE-IN AIDES

24 CFR 5.403

A live-in aide is defined as a person who resides with one or more elderly persons, near-elderly persons, or persons with disabilities, and who:

- Is determined to be essential to the care and wellbeing 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.

Owners must verify the need for a live-in aide. Verification must be obtained from the applicant/resident's physician, psychiatrist, or other medical practitioner or health care provider. Owners may not request confidential medical records or require the individual to undergo a physical exam. Owners are required to approve a live-in aide if needed as a reasonable accommodation for a person with disabilities.

Before a live-in aide moves into the unit, they must:

- Disclose and provide documentation of their SSN
- Meet the property's screening criteria
  - Excluding any "ability to pay" criteria i.e. credit report review

A live-in aide is not a family member. Their income is not verified or counted toward the household's annual income. Relatives are not excluded from being live-in aide so long as they meet the above requirements. They are not, however, considered family members. For Section 202 and 811 PRACs, adult children may not join the household after initial occupancy unless they are performing the services of a live-in aide. Unreimbursed out-of-pocket expenses paid by the resident for the services of the live-in may be counted toward eligible medical expenses.

Since live-in aides may only reside in the unit as long as the resident remains in the unit, they do not qualify as a remaining family member. Owners should create a live-in aide lease addendum, which gives the owner the right to evict a live-in aide who violates house rules and that states the live-in aide has no right to the unit after the resident no longer resides there. HUD must approve any lease addendum before use.

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Remaining Family Members

HUD Handbook 4350.3, Section 3-16

At some point during the family's residency, the family composition may change so that only one member of the family remains. The owner must determine if the remaining member is eligible to continue living in the unit. The remaining member must have been on the lease at the time the last other family member left the household and must be of legal contract age.

For Section 202 and 811 properties, the surviving member of an elderly or disabled family must have been on the lease and living in the unit with the now deceased member at the time of their death. Eligibility of the remaining member is not reviewed at the time of death of a family member; the remaining member remains eligible and is required to pay income-based rent.

In Section 202/8, Section 202 PAC, Section 202 PRAC or Section 811 PRAC projects, if an individual who established the household's eligibility leaves for any reason other than death, the eligibility of the remaining member must be determined at that time. The owner must determine if the remaining member(s) meets all property, income, and age or disability requirements. If the remaining member is not eligible, they may not receive assistance, and in Section 202 PRAC or 811 PRAC projects, they may not remain in the unit.

Police Officers or Security Personnel

In Section 8 units, owners have the option to lease units to a police officer or security personnel that are over the income limit. Rents can be reset for these units with HUD approval. See HUD 4350.3, Section 5-27 for more information on setting rents for these units. For properties with 100 or more units, only one percent of the total subsidized units may be occupied by police or security. For properties with fewer than 100 units, only one subsidized unit may be occupied by police or security.

In order to be eligible, police officers/security personal must:

- Be employed full-time or at least 35 hours per week by a government agency or private employer.
- Be compensated by their employer for providing police or security services
- Pass the same screening as other residents

Before allowing a police officer or security personnel to occupy the unit, the owner must ask for and receive approval from the local HUD office or CA.

HUD or the CA should inform the owner of their decision within 30 days of submission of the request.

SOLE RESIDENCE RESTRICTION

Section 8-assisted families may only receive assistance in one unit and must use the unit as their sole residence. Double subsidy is not allowed under any circumstances, not even for one day.

In order to avoid duplicative subsidy for new applicants, the EIV Existing Tenant Search must be used during applicant screening, and the EIV Multiple Subsidy Report must be used for current residents. The reports search both the PIC and TRACS databases to identify if applicants or residents are receiving duplicative subsidy through Multifamily or PIH programs.

Resident households may apply to receive assistance from another source or live at another assisted property while currently receiving assistance. If the household decides to move to another assisted unit, the subsidy end date or move out date for the current assisted unit must be the day before the subsidy begins or move-in date for the new unit.

If there is overlap of assistance during the time the tenant moves from one property to another, the owner of the property from which the resident is moving retains the subsidy for the overlap period. The owner of the property to which the resident is moving is required to perform a termination of assistance (TM) and then an initial certification (IC) in TRACS for the day after the household's subsidy is terminated in the previous unit.

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***Example**: Sarah is a Section 8-assisted resident at Happy Valley Apartments. She has recently come to the top of the waitlist at Maple Hill Apartments, which is also a Multifamily property that is 100 percent Section 8-assisted. She is screened and approved to move into a unit at Maple Hill. Her move in date is June 15th. Sarah signs her lease and promptly begins moving into her new home. She does not turn in her keys to the manager at Happy Valley until June 17th. Happy Valley records her move-out as 6/17 and submits the TRACS file on the same date.*

Maple Hill submits Sarah's move-in certification with the 8/1 voucher, however, there is an error alerting the manager that Sarah is unable to receive assistance for both units at the same time. Maple Hill will then have to terminate Sarah's assistance as of 6/15 and perform an Initial Certification (IC) effective on 6/18 in order to move forward without any double subsidy issues. Maple Hill will not receive any subsidy for the dates of over-lapping subsidy.

HOUSING CHOICE VOUCHERS (HCV)

Many properties receive questions and applications from households who hold a Section 8 housing choice voucher (HCV) from a public housing authority (PHA). Depending on the type of property and assistance, HCV households may or may not be eligible.

Properties that are 100 percent Section 8-assisted may not admit an HCV household unless the household gives up their voucher at the time of move in. Voucher holders may apply and be placed on the waitlist, but the owner should explain that they will need to give up their voucher at move-in. If the household moves out of the assisted unit, the assistance will not follow with them, and that they will need to re-apply at the PHA to receive another voucher.

Properties that are not 100 percent Section 8-assisted may house voucher holders in a non-assisted unit at the property, such as Low Income Housing Tax Credit or Section 236 units.

Properties that do not have assisted units may house voucher holders.

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Section 8 Elderly and/or Disabled Property Requirements (HUD-Mandated)

HUD Handbook 4350.3, Section 3-28

Depending upon the type of assistance and program, each property is required to follow a specific definition of elderly and/or disabled; these definitions are used to establish property eligibility as required by HUD.

RAD PBRA

Owners of all RAD properties (with the exception of 202 PRAC) converting under RAD must not establish an elderly designation. This is because the RAD statute, unlike the statute governing Public Housing, does not authorize designations.

VERIFYING AGE

Verification of age is completed to ensure the applicant is old enough to sign a legally binding contract, to determine eligibility in some programs, and to determine if the household is entitled to receive certain deductions. Age is verified using applicant or resident-provided documents such as:

- A birth certificate
- A baptismal certificate
- Military discharge papers
- A valid passport
- A census document showing age
- A naturalization certificate
- A Social Security Administration benefits printout

VERIFYING DISABILITY STATUS

In order to verify certain eligibility factors, preferences, and deductions for some properties, disability status may need to be verified. Since different programs follow slightly different definitions of disability, it is very important to know which definition your program follows.

RAD PBRA: Elderly Designation

Pursuant to the RAD Statute, Section 202 PRAC Properties converting under RAD remain designated as elderly properties and are required to operate as such after conversion. Owners of all other properties converting under RAD must not establish an elderly designation (i.e., a set-aside of units for the elderly). This is because the Section 8 statute, unlike the statute governing public housing, does not authorize designations.

DISABILITY IN SECTION 8 PROGRAMS

The following programs follow the HUD/Social Security definition of disability:

- Section 8 New Construction
- Section 8 Substantial Rehabilitation
- Section 8 State Agency
- RHS Section 515/8
- Section 8 Property Disposition Set Aside
- Section 231 with Section 8

For Elderly Families, Definition A: *Elderly family* means a family whose head, spouse, or cohead is a person who is at least 62 years of age. It may include 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.

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For Person with Disabilities, Definition E: (1) Means a person who:

(i) Has a disability, as defined in 42 U.S.C. 423;

(A) Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; or

(B) In the case of an individual who has attained the age of 55 and is blind, inability by reason of such blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he/she has previously engaged with some regularity and over a substantial period of time. For the purposes of this definition, the term blindness, as defined in section 416(i) (1) of this title, means central vision acuity of 20/200 or less in the better eye with use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for the purposes of this paragraph as having a central visual acuity of 20/200 or less.

(ii) Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:

(A) Is expected to be of long-continued and indefinite duration,

(B) Substantially impedes his or her ability to live independently, and

(C) Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or

(iii) Has a developmental disability, as defined in Section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(8)), i.e., a person with a severe chronic disability that

(A) Is attributable to a mental or physical impairment or combination of mental and physical impairments;

(B) Is manifested before the person attains age 22;

(C) Is likely to continue indefinitely;

(D) Results in substantial functional limitation in three or more of the following areas of major life activity:

a. Self-care,

b. Receptive and expressive language,

c. Learning,

d. Mobility,

e. Self-direction,

f. Capacity for independent living, and

g. Economic self-sufficiency; and

(E) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated.

(2) Does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome;

(3) For purposes of qualifying for low-income housing, does not include a person whose disability is based solely on any drug or alcohol dependence; and

(4) Means person with disabilities (individual with handicaps), as defined in 24 CFR 8.3, for purposes of reasonable accommodation and program accessibility for persons with disabilities.

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Since the disability status listed in EIV is not always accurate, owners may not use EIV to determine an applicant or tenant's disability status. Owners must obtain current tenant-provided information, or verification directly from the Social Security Administration. Receipt of veteran's benefits does not automatically qualify a person as disabled since the Veteran's Administration and Social Security Administration do not use the same definitions of disability.

In these programs, receipt of social security disability payments is adequate verification of disability, since the definition of disability in these programs includes Social Security's definition of disability. Applicants may meet the Social Security Administration's definition of disabled, however, without receiving social security benefits. In these cases, the owner may send a third-party verification form to an appropriate source of information, including but not limited to a physician, psychologist, clinical social worker, other licensed health care professional, or the Veterans Administration. The owner's verification form:

- Must not ask for the specific nature or extent of the disability
- Must be signed by the applicant/resident authorizing the third party to release the information
- Should include the definitions of disability used for eligibility purposes and ask if the applicant/resident meets the definition (where applicable)
- May be completed and signed by a physician, psychologist, clinical social worker, other licensed health care provider, or the Veterans Administration.

Admitting Ineligible Households based on Elderly/Disability Requirements

If owners have already admitted over-income households and are still have chronic vacancies, owners are able to request a waiver to admit a population other than the population the property is designated to serve. This may mean requesting to waive an age requirement or requesting to serve a different disabled population. All requests must be sent and approved by the local HUD Field Office except in the case of a Section 202 PRAC; in that case requests must be sent from the Multifamily Hub to headquarters for approval.

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Section 9 Chapter 3 Post Test

1. The two exceptions to the requirement for disclosing social security numbers are:
   a. All household members over the age of 62 and all household members under the age of 6
   b. Noncontending persons and those who were 62 or older and receiving assistance as of 1/31/2010
   c. Live-in aides and guests
   d. None of the above. There are no exceptions

2. Dana Bragg (age 21) is applying for a project-based Section 8 unit. She has 2 dependent children and is attending college part-time. The owner must look at Dana's parents' income to determine if she is eligible.
   a. True
   b. False

3. Mike and Tom are ineligible noncitizens with a two-year-old daughter who is an eligible citizen. They are applying at a 100 percent PBRA Section 8 property. Based on the noncitizen rule, the family is eligible to receive prorated assistance.
   a. True
   b. False

4. When converting units to RAD PBRA, in place families at the time of conversion:
   a. Do not have to meet income limit requirements
   b. Must meet income limit requirements or pay market rent
   c. Must meet different income limits than applicants
   d. Must be rescreened based on the owner's new TSP

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5. Herb (age 55) is a person with disabilities. He requests that his daughter Tanya (age 22) who does not live with him now, be his live-in aide. For purposes of determining unit size:
   a. Tanya may not be Herb's live-in aide because she is a relative
   b. Tanya is counted when determining unit size
   c. Tanya may be Herb's live-in aide, but she is not counted when determining unit size
   d. Tanya is counted when determining income size, but her income is also counted

6. Sex offender screening must be conducted prior to move-in on all household members, including children and live-in aides:
   a. True
   b. False

7. The Marquez family consists of head of household Max, his wife Martha who is pregnant, and their foster child Matilda. Max will also have a live-in aide. Martha's sister will stay with them for two weeks when the baby is born. How many people are in the family for the purpose of establishing income limits?
   a. 2
   b. 3
   c. 4
   d. 5

8. Only project-based Section 8 projects converting through RAD use the low (80%) income limit.
   a. True
   b. False

Notes

CHAPTER 4 Income and Rent Calculation

Section 1 Learning Outcomes

LEARNING OUTCOMES

Upon completion of this chapter, you should be able to:

- Identify and calculate annual income
- Identify assets and calculate income from assets
- Identify HUD defined allowances and expenses
- Recognize the requirements for verification of income, allowances, and expenses

Section 2 Annual Income

CFR 5.609(a)

Annual income includes, with respect to the family:

- All amounts, not specifically excluded in 24 CFR 5.609(b), 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,
- Unearned income by or on behalf of each dependent who is under 18 years of age, and
- Imputed returns of an asset based on the current passbook savings rate, as determined by HUD, when the value of the net family assets exceeds the HUD-determined threshold (adjusted annually for inflation) and the actual returns from a given asset cannot be calculated. If it is possible to calculate actual returns from an asset, the PHA should use that amount as income.

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.

- Unlike the previous version of the regulations prior to HOTMA, the current regulations governing annual income do not list sources of income that are included in annual income. 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, all income is included unless it is specifically excluded by regulation.

24 CFR 5.609(c)

The methodology used for calculating annual income differs depending on whether income is being calculated at initial occupancy, interim reexamination, or as part of an annual reexamination.

- For **initial occupancy** and **interim reexaminations**, the PHA must estimate the family income for the upcoming 12-month period using current income.
- For all **annual reexaminations**, the PHA must determine the family income for the previous 12 months unless using a streamlined income determination. In determining the income for the previous 12-month period, the PHA must take into account any redetermination from an interim reexamination and any income changes that are not yet accounted for.

INCOME OF VARIOUS HOUSEHOLD MEMBERS

Income inclusions and exclusions vary depending on the status of each household member. As such, it is important that each household member be coded correctly in the owner's software and on the form HUD-50059.

SUMMARY OF INCOME INCLUDED AND EXCLUDED BY HOUSEHOLD MEMBER	
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)].
Children under 18 years of age	Earned income is excluded [24 CFR 5.609(b)(3)]. All sources of unearned income, except those specifically excluded by the regulations, are included [24 CFR 5.609(a)].
Full-time students 18 years of age or older (not head, spouse, or cohead)	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.

MINORS

24 CFR 5.609(a)(1)
24 CFR 5.609(b)(3)

Employment income earned by children under the age of 18 is not included in annual income.

All other sources of unearned income, except those specifically excluded by the regulations, are included.

- This includes all benefit and other non-earned income paid directly to minors.

The assets and asset income of minors are also included in net family assets

Full-Time Students

24 CFR 5.603

A family member is considered a full time student if they are attending school or vocational training on a full-time basis.

Therefore, to be considered "full-time," a student must be considered "full-time" by an educational institution with a degree or certificate program.

The head of household, spouse, and cohead are never considered full-time students. If the head, spouse, or cohead is a full-time student and receives earned income, the full amount of their earned income is included in annual income.

24 CFR 5.609(a)(1)
24 CFR 5.609(b)(14)

Earned income of dependent full-time students in excess of the amount of the deduction for a dependent, as specified in 24 CFR 5.611, is not included as income.

- The amount of the dependent deduction will be adjusted annually for inflation.

All sources of unearned income, except those specifically excluded by the regulations, are included.

- This includes all benefits and other unearned income paid directly to full-time students.

The assets and asset income of full-time students is considered when determining net family assets.

Temporarily Absent Family Members

Chapter 3 of the HUD Handbook 4350.3 defines different types of temporarily absent family members.

With the exception of children who are temporarily absent from the home as a result of placement in foster care (24 CFR 5.403), the regulations governing annual income do not specifically address temporarily absent family members, however, the HUD Handbook 4350.3 defines various types of temporarily absent family members in Chapter 3.

Since the regulations state to count all income unless that income is specifically excluded, the income of all family members approved to live in the unit (including temporarily absent family members) is included.

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LIVE-IN AIDES

24 CFR 5.609(b)(8)

The income of live-in aides, regardless of whether it is earned or unearned income, is fully excluded from annual income.

CFR 5.403

A live-in aide is 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.

Live-in aides are considered members of the household, not family members.

Live-in aides are not eligible for any deductions when the family's adjusted income is calculated.

FOSTER CHILDREN AND FOSTER ADULTS

24 CFR 5.603 (b)

A *foster child* is defined as 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.

A *foster adult* is defined as 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.

24 CFR 5.609(b)(8)

The income of foster children and foster adults, regardless of whether it is earned or unearned, is fully excluded from annual income.

24 CFR 5.609(b)(4)

The owner excludes payments received for the care of foster children or foster adults.

State or tribal kinship or guardianship care payments are also excluded from annual income.

Foster children and foster adults are considered members of the household, not family members.

Section 3 Earned Income

24 CFR 5.100

Earned income is defined as 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. These types of contributions to household income are considered ***unearned income***.

24 CFR 5.609(a)

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.

The owner uses the full (gross) amount before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation.

Notice H 2023-10

When pay stubs are used to calculate employment income, HUD requires the owner collect a minimum of two current and consecutive pay stubs. Paystubs must be dated within 120 days of the date received by the owner.

Owners were previously required to collect the most recent four to six pay stubs to verify employment income.

Once paystubs are collected, HUD regulations do not address how employment income should be annualized (i.e., an average of paystubs, year-to-date, or another method)

Seasonal Employment

24 CFR 5.609 (b)(24)
24 CFR 5.603 (b)

Some occupations regularly work less than 12 months per year. Family members may have temporary, variable, or seasonal schedules or may work sporadically throughout the year. Provided this income does not meet the definition of nonrecurring income, seasonal employment is included in annual income.

Earnings of seasonal workers or day laborers are included in annual income, even if the source, date, or amount of the income varies.

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 6 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.

- Examples include employment limited to holidays or agricultural seasons.
- Seasonal work may include employment as a lifeguard, ballpark vendor, or snowplow driver.

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.

SELF-EMPLOYMENT

24 CFR 5.609(b)(28)

Annual income includes net income from the operation of a business or through self-employment.

- Net income equals gross income less expenses.

Families may treat as a business expense depreciation (straight-line), interest payments on loans, and all expenses other than those for expansion or capital improvements.

24 CFR 5.609(b)(28)(ii)

Any withdrawal of cash or assets from a business is included as income except when the withdrawal is for reimbursement of amounts the family has invested in the business.

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.

24 CFR 5.609(b)(24)

Income received as an independent contractor is included in annual income, even if the source, date, or amount of the income varies. Independent contractors are considered self-employed, and the net income is included in annual income.

24 CFR 5.603(b)

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.

This includes "gig" workers such as contractors who work for companies such as Uber and Lyft. These employees may work varying amounts from week-to-week, which can present a challenge for the owner when calculating income. For individuals working for rideshare companies, the owner may request a summary of payments.

MILITARY PAY

Count all regular pay, special pay, and allowances of a member of the Armed Forces (whether temporarily absent or not).

24 CFR 5.609(b)(11)

Exclude the special pay for exposure to hostile fire.

Section 4 Income of Students

EDUCATIONAL SAVINGS ACCOUNTS

24 CFR 5.609(b)(10)

Any amount in or from, or any benefits, income, or distributions from, any Coverdell educational savings account of or any qualified tuition program under IRS sections 529 and 530 is excluded from income.

STUDENT LOANS

24 CFR 5.609(b)(20)

Student loans are excluded from annual income since the regulations exclude 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).

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.

Title IV HEA assistance: Any assistance to students under section 479B of the Higher Education Act of 1965 (Tile IV of the HEA) must be excluded from the family's annual income.

Examples of assistance under title IV of the HEA include:

- Pell grants
- Teach grants
- Federal Work Study programs
- Federal Perkins Loans
- Income earned in employment and training programs under Section 134 of the Workforce Innovation and Opportunity Act (WIOA) (starting 1/1/24)
- Bureau of Indian Affairs/Education student assistance programs
- The Higher Education Tribal Grant
- The Tribally Controlled Colleges or Universities Grant program

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- **Note:** Income received under the GI Bill is not Title IV financial aid

Other student financial assistance: Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education not otherwise excluded by the Federally mandated income exclusions are excluded.

Actual covered costs are defined as the actual costs of:

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

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

The educational institution must meet the definition of an institution of higher education (as defined under section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)).

To qualify, other student financial assistance must be expressly:

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

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

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

Student financial assistance, does not include:

- Financial support provided to the student in the form of a fee for services performed;
- 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.

When the student is receiving assistance that is excluded under both categories, the Title IV HEA Assistance must be applied first. Student financial assistance is then applied to any remaining actual covered costs. Once actual costs are covered, any remaining student financial assistance would be considered income.

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EXAMPLE
When a student receives assistance from both Title IV of the HEA and from other sources: • Calculate the actual covered costs. • Assistance received under Title IV of the HEA is applied to the student's actual covered costs first. • Then apply the other student financial assistance 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 student financial assistance is excluded from income. - Actual covered costs: $25,000 - Title IV HEA assistance: $26,000 - Other student financial assistance: $5,000 - Exclude the entire Title IV HEA assistance. - Include in income: $5,000 of other financial assistance
• If the amount of assistance excluded under Title IV of the HEA is less than the actual covered costs, exclude the amount of other student financial assistance up to the amount of the remaining actual covered costs. - Actual covered costs: $22,000 - Title IV HEA assistance: $15,000 - $22,000 actual covered costs - $15,000 Title IV HEA assistance = $7,000 remaining - Other student financial assistance: $5,000 - $5,000 other financial assistance - $7,000 remaining - Include in income: $0
- Actual covered costs: $18,000 - Title IV HEA assistance: $15,000 - $18,000 actual covered costs - $15,000 Title IV HEA assistance = $3,000 remaining - Other student financial assistance: $5,000 - $5,000 other financial assistance - $3,000 remaining - Include in income: $2,000

Section 5 Periodic Payments

Periodic payments are forms of income received on a regular, periodic basis.

HUD regulations specify which periodic payments are not included in annual income but do not specify which types of periodic payments are included.

- In general, periodic payments to be included in income include payments from Social Security, annuities, insurance policies, retirement funds, pensions, lotteries, disability benefits, and other similar types of periodic receipts and withdrawals from investments as income.
- Withdrawals from ABLE accounts (i.e., tax-advantaged savings accounts under the Achieving Better Life Experience Act) are an exception and are excluded from income.

Lumps Sum Payments counted as Income

24 CFR 5.609(a)

Generally, lump sums received by the family such as lottery or contest winnings are not considered income since they are nonrecurring income.

However, lump-sum payments caused by delays in processing periodic payments (such as unemployment or welfare assistance benefits) are included as income since they are not explicitly excluded under the regulations.

24 CFR 5.609(b)(16)

However, deferred periodic amounts (whether received as a lump sum or prospective monthly payments) from the following sources are excluded:

- Social Security and Supplemental Security Income (SSI)
- Department of Veterans Affairs (VA) disability benefits

Applying the COLA

The Social Security Administration announces the cost-of-living adjustment (COLA) for Social Security benefits each October.

- In some years there is no COLA for SS benefits

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Notice H 2023-10

Effective the day after the SSA has announced the COLA, owners are required to factor in the COLA when determining SS and SSI income for all annual recertifications and interim recertifications of family income which have not yet been completed and will be effective January 1 or later of the following year.

- When a COLA is applied, the owner should document the calculation on the EIV report or case narrative in order to leave a clear audit trail.

RETIREMENT ACCOUNTS

24 CFR 5.609(b)(26)

Any distribution of periodic payments 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 included in annual income at the time it is received by the family.

ALIMONY AND CHILD SUPPORT

H Notice 2023-10

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

24 CFR 5.609(a)

Include periodic and determinable amounts such as alimony and child support since they are not specifically excluded under the regulation.

HUD Handbook 4350.3

Child support paid to the custodial parent through a state child support enforcement or welfare agency may be included in the family's monthly welfare check and may be designated in different ways. In some states, these payments are not identified as separate from the welfare grant. In these states, it is important to determine which portion is child support and not to count it twice. In other states, the payment may be listed as child support or as "pass-through" payments. These amounts are counted as income.

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When no documentation of child support, divorce, or separation is available, the owner may require the family to sign a certification stating the amount of child support received.

NONRECURRING INCOME

24 CFR 5.609(b)(24)

Exclude from annual income nonrecurring income, which is defined as income that will not be repeated in the coming year (the 12 months following the effective date of the certification) based on information provided by the family.

- However, income received as an independent contractor, day laborer, or seasonal worker is included, even if the source, date, or amount of the income varies.

H Notice 2023-10

Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual recertification period is excluded from annual income as nonrecurring.

- This does not include unemployment income and other types of periodic payments received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended.
- Owners may accept a self-certification from the family stating that the income will not be repeated in the coming year.

EXAMPLE: NONRECURRING INCOME
• The Watts family is moving in. • They receive income from a guaranteed income program in their city. • The payments will end 6 months after the family is admitted to the program.
• While the guaranteed income will be repeated in the coming year, it will end before the family's next annual. • The income is fully excluded.

24 CFR 5.609(b)(5)

Insurance payments and settlements for personal property losses (including but not limited to payments under health and accident insurance and workers' compensation) are excluded.

However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that are received in lieu of wages for workers' compensation are included in annual income.

- Any workers' compensation is always excluded from annual income, regardless of the frequency or length of the payments.

EXAMPLE: WORKERS COMP
• Heather Cooper is a program participant. • She was injured in a work accident. • At her 3/1 annual she states she is receiving worker's compensation equal to her salary paid in biweekly installments for a period of 18 months.
• Even though the income will be repeated in the coming year and will not end before the family's next annual. • The income is fully excluded.

Notice H 2023-10

Income excluded as nonrecurring includes:

- 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.

24 CFR 5.609(b)(24)

Nonrecurring income includes:

- U.S. Census Bureau for employment income (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not resulting in permanent employment.
- Direct federal or state payments for economic stimulus or recovery.
- Amounts received directly by the family as a result of state or federal refundable tax credits or state or federal tax refunds at the time they are received.

- Gifts for significant life events or milestones (e.g., holidays, birthdays, wedding gifts, baby showers, anniversaries).
- Nonmonetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.
- Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings.

Non-monetary in-kind donations, such as food or toiletries, received from a food bank or similar organization are excluded from annual income.

- When calculating annual income, owners are prohibited from assigning monetary value to non-monetary in-kind donations received by the family.
- Non-recurring, non-monetary in-kind donations from friends and family may be excluded as non-recurring income.

Provided they do not meet the definition of non-recurring, the owner includes regular contributions (cash or noncash) provided on a regular basis.

- May include rent and utility payments paid on behalf of the family.

PUBLIC ASSISTANCE

Since the following public assistance is not specifically excluded under the regulation, it is included as income:

- Temporary Assistance to Needy Families (TANF)
- SSI
- General Assistance/General Relief

PUBLIC ASSISTANCE INCOME IN AS-PAID LOCALITIES ("WELFARE RENT")

The income regulations at 24 CFR 5.609 no longer include a reference to welfare assistance in as-paid states.

An "as-paid" system is one in which the welfare assistance payment includes a specifically designated amount for shelter and utilities that is subject to adjustment based upon the actual cost of shelter and utilities.

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In an email dated 7/6/23, HUD's HOTMAquestions@HUD.gov stated: *The regulations at 5.609(b), which define what is not considered income under the final rule, do not include the exclusions to the welfare assistance payment or instructions that were previously codified at 5.609(b)(6). Therefore, all owners will include the monthly amount the family receives in TANF assistance in the determination of annual income.*

However, the definition of TTP at 24 CFR 5.628 still includes a reference to the welfare rent. Additional guidance from HUD is needed on this topic.

Section 6 Other Types of Income

HOME-BASED CARE PAYMENTS FOR A FAMILY MEMBER WITH DISABILITIES

24 CFR 5.609(b)(19)

Exclude 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.

- Federal Medicaid rules allow states to cover a wide range of institutional and home and community-based long-term services and supports (LTSS), but the type of services, populations covered, and delivery models differ substantially across states based on their individual Medicaid program structure. Many states provide benefits to individuals with a variety of disabilities, which allow such individuals to remain at home rather than reside in institutional settings such as hospitals, nursing homes, or other institutional or segregated settings.
- The previous requirement that these payments offset the cost of services or equipment has been eliminated.
- The exclusions applies to any family member with a disability, not just a developmental disability as in previous versions of the regulation.

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.

- For example, an adult providing personal care services for a parent or other family member with a disability could receive direct payments from the State agency for performing those services. Amounts paid directly to a member of the assisted family by the state Medicaid agency (including through a managed care entity) or other state or federal agency (or other entities authorized by the agencies to make such payments) to enable a family member who has a disability who wishes to remain living in the assisted unit, under the applicable terms and conditions for the family member to be eligible for such payments, are excluded from the family's income.

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- This income exclusion applies only to payments to the family member for caregiving services for another member of the family residing in the assisted unit. For example, payments to the 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.
- If the agency was making payments for caregiving services to the family member for not only another member of the assisted family but also 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.

EXAMPLE: HOME-BASED CARE PAYMENTS
• Sally lives in a unit with her mother Barbara who is disabled and needs care services. • Barbara wishes to remain in the unit. • Sally is providing care services for her mom and gets direct payments from the state Medicaid agency. • Amounts paid directly to Sally by the state Medicaid agency to care for Barbara are excluded.

TRAINING PROGRAMS

24 CFR 5.609(b)(12)(iv)

Exclude incremental earnings and benefits from training programs funded by HUD or 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.

- *Incremental earnings* means the increase between the total amount of welfare and earnings of a family member prior to enrollment in the training program, and welfare and earnings of the family member after enrollment in the training program.

Excluded amounts must be received under employment training programs with clearly defined goals and objectives and only excluded during participation in the program unless the amounts are excluded as federal financial aid under 24 CFR 5.609(b)(12)(iv)).

Publicly Assisted Programs

24 CFR 5.609(b)(12)(ii)

Exclude amounts received by a participant in publicly assisted programs which are specifically for reimbursement of out-of-pocket expenses incurred and are made solely to allow participation in a specific program.

- Clothing
- Special equipment
- Transportation
- Child care, etc.

Civil Action Settlements

24 CFR 5.609(b)(7)

Exclude 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, which resulted in a member of the family becoming disabled.

Plan for Achieving Self-Sufficiency (PASS)

24 CFR 5.609(b)(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).

Resident Service Stipends

24 CFR 5.609(b)(12)(iii)

Resident services stipends are generally modest amounts of money received by residents for performing services such as hall monitoring, fire patrol, lawn maintenance, and resident management that enhance the quality of life in the development.

Exclude amounts received under a resident service stipend provided they do not exceed $200 per month.

- If the individual receives an amount that exceeds $200 per month, the owner must include the entire amount in annual income.
- Individual cannot receive more than one such stipend at a time.

Health and Medical Care Reimbursements

24 CFR 5.609(b)(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 are excluded.

Holocaust Reparation payments

24 CFR 5.609(b)(13)

Payments received from a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era are excluded.

Refunds and Rebates for Property Taxes

24 CFR 5.609(b)(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 are excluded.

Adoption Assistance Payments

24 CFR 5.609(b)(15)

Adoption assistance payments for a child in excess of the amount of the dependent deduction, specified in 24 CFR 5.611, are excluded.

- Note, the dependent deduction will be adjusted annually for inflation.

Aid and Attendance for Veterans

24 CFR 5.609(b)(17)

Exclude payments related to aid and attendance to veterans in need to regular aid and attendance (38 USC 1521).

- Certain veterans are eligible for "aid and attendance" payments from the VA. These payments are distinct from payments made to veterans under other VA programs, including the Veterans Pension program. Owners should carefully review any income documentation provided by the family, because many types of VA income, including the Veterans Pension and the VA Survivors Pension, are included in annual income.

Notice H 2023-10

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 are excluded.

Loan Proceeds

24 CFR 5.609(b)(20)

Exclude the net amount disbursed by a lender to or on behalf of a borrower under the terms of the loan agreement.

Funds may be received by the family or a third party.

- For example, funds may be received by an educational institution or by a car dealership to finance the purchase of a car.

Baby Bond Accounts

Income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by federal, state, or local government are excluded.

- While there is currently no federal baby bond program, many states and cities have such programs.

Mismanagement of Assets Claims

24 CFR 5.609(b)(21)

Exclude 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.

Housing Gap Payments

24 CFR 5.609(b)(23)

Replacement housing "gap" payments that offset increased rent and utility costs to families that are displaced from one federally subsidized housing unit and move into another federally subsidized housing unit (49 CFR part 24).

If the gap is reduced or eliminated because of a subsequent move by the tenant or change in the subsidy, and the tenant continues to receive the payment, the payment that is no longer needed to close the gap should be counted as income.

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CIVIL RIGHTS SETTLEMENTS AND JUDGMENTS

24 CFR 5.609(b)(25)

Exclude income from civil rights settlements or judgments, including settlements or judgments for back pay regardless of how the settlement or judgment is structured (i.e., as a lump sum or structured payment).

- This may include amounts received as a result 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.

- For example, if the funds are deposited into the family's savings account or a revocable trust under the control of the family.

FAMILY SELF SUFFICIENCY ACCOUNT

24 CFR 5.609(b)(27)

Exclude income earned on amounts placed in a family's Family Self-Sufficiency (FSS) account.

- The exclusion does not address distributions from a family's FSS account, because such distributions (either as a final or interim distribution under the terms of the Contract of Participation) will be excluded from income under 24 CFR5.609(b)(24)(vii) as a lump-sum addition to net family assets.

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FEDERALLY MANDATED INCOME EXCLUSIONS

Federal Register 1/31/2024; 24 CFR 5.609 (b)(22)

Value of Food Stamps

- Value of allotment provided to an eligible household under the Food Stamp Act of 1977.
- This exclusion also applies to assets.

Benefits under Section 1780 of the Richard B. Russel School Lunch Act and Child Nutrition Act of 1966

- Includes WIC and reduced-price lunches.
- This exclusion also applies to assets.

Domestic Volunteer Services Act

- Payments, including for supportive services and reimbursement of out-of-pocket expenses under the Domestic Volunteer Services Act of 1973 are excluded.
- 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)).
- This exclusion also applies to assets.
- These programs include:
  - VISTA - Volunteers in Service to America
  - RSVP - Retired Senior Volunteer Program
  - Foster Grandparents
  - Senior Companions Programs

Heating assistance

- 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)).
- This exclusion also applies to assets.

Workforce Innovation and Opportunity Act of 2014

Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998 reauthorized as the Workforce Innovation and Opportunity Act of 2014 (29 U.S.C. 3241(a)(2))Allowances, earning and payments to AmeriCorps participants under the National and Community Service Act of 1990

Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002

Deferred disability benefits from the Department of Veterans Affairs

- Received in a lump sum or in prospective monthly amounts

Indian Settlements/Trusts (these exclusions also apply to assets)

- Payments received under the Maine Indian Claim Settlement Act of 1980. (Pub. L. 96-420, 94 section 9(c)).
- Certain payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c)).
- Income derived from certain submarginal land of the United States held in trust for particular Indian tribes (25 U.S.C. 5506).
- Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation section 9(c)).
- Income derived from the disposition of funds of the Grand River Band of Ottawa Indians (Pub. L. 94-540 section 6).
- 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. This exclusion does not include proceeds of gaming operations regulated by the Commission (25 U.S.C. 1407-1408).
- Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b))

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- 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.)
- A lump sum or a 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
- 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)

Title IV of the Higher Education Act of 1965

- Amounts of student financial assistance 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).

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- For Section 8 programs only, any financial assistance in excess of amounts received by an individual for tuition and any other required fees and charges under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)),shall be considered income if the individual is over the age of 23 with dependent children (Pub. L. 109-115, section 327 (as amended)).

Spina Bifida and Agent Orange settlements (these exclusions also apply to assets)

- Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established in the In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.).
- Payments received under 38 U.S.C. 1833 (c) to children of Vietnam veterans born with spina bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean and Thailand service veterans born with spina bifida(42 U.S.C. 12637(d)).

Child Care and Development Block Grant Act of 1990

- The value of any childcare provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990.

Earned Income Tax Credit (EITC) refund payments

Any amount in an Achieving Better Life Experience (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/H 2019-06 or subsequent or superseding notice is excluded from income and assets.

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.

Title V of the Older Americans Act of 1965

- Payments under Title V are excluded. This is the Senior Community Service in Employment Program (SCSEP) funded through the Department of Labor.
- This program is administered by national contractors such as:
  - Green Thumb
  - AARP - American Association of Retired Persons
  - NCOA - National Council on Aging
  - National Council of Senior Citizens (sometimes called Senior Aides)
  - US Forest Services
  - NCBA - National Caucus for Black Aged
  - Urban League
  - National Association for the Spanish Elderly
- State coordinators for Title V can provide a list of additional contractors who administer Title V.
- Even if there is 90 percent federal and 10 percent local funding, 100 percent of the income funded through Title V is excluded.

Crime Victim Compensation

- 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)).
- This exclusion also applies to assets.

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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)

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.

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Section 7 Types of Assets

The regulation at 24 CFR 5.603(b)(3) provides a list of things that are excluded from the calculation of net family assets.

Unlike previous version 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.

All assets are categorized as either real property or personal property.

REAL PROPERTY

Notice H 2023-10; 24 CFR 5.603(b)(3)(iv)

Real property includes things like land or a home.

Equity in real property (land owned or bequeathed) or other capital investments is considered an asset.

The owner counts the net cash value of the real property after deducting reasonable costs that would be incurred in disposing of the family's real property, including repayment of any mortgage debt or other monetary liens on the real property.

- Expenses to convert to cash may include such costs as broker fees, sales commissions, settlement costs, and transfer taxes.
- 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 an exclusion from family assets.

However, 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 is not considered an asset, including:

- 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; or
- Inherited property in dispute.

PERSONAL PROPERTY

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

Personal property is categorized as either necessary or non-necessary.

Necessary personal property:

- Are 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.
- 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.
- 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 items of personal property are excluded from net family assets.

Non-necessary personal property includes bank accounts, other financial investments, and luxury items.

Items of personal property that do not qualify as necessary personal property are classified as non-necessary personal property.

- Determining what is a necessary item of personal property is a highly fact-specific determination, and therefore it is incumbent on owners to gather enough facts to qualify whether an asset is necessary or 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 cultural value, or which does not hold family (e.g., toys, books) significance 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 Collectables (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.

Whether or not personal property is considered an asset depends on if it's considered necessary or non-necessary and the total cash value of the family's non-necessary personal property.

- Necessary items of personal property are excluded from net family assets.
- When the combined value of all non-necessary personal property does not exceed the HUD-determined threshold, as adjusted by inflation, all non-necessary personal property is excluded from net family assets.
- Non-necessary personal property with a combined value greater than the HUD-determined threshold, as adjusted by inflation, is considered part of net family assets.

BANK ACCOUNTS

Notice H 2023-10

HUD considers bank accounts non-necessary items of personal property.

- When the combined value of all non-necessary personal property is greater than the HUD-determined threshold, as adjusted by inflation, checking and savings accounts are considered part of net family assets.
- When the combined value of all non-necessary personal property does not exceed the HUD-determined threshold, as adjusted by inflation, checking and savings accounts are excluded from net family assets.

Actual income from checking and savings accounts is always included in a family's annual income.

Anticipated income must be recorded on the 50059 for every asset, regardless of the total value of net family assets.

When verification is required, the owner must obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

EXAMPLE 1: BANK ACCOUNTS
• Kaitlin Mitchell has a non-interest-bearing checking account worth $2,300. • This is her only asset.
• The checking account is excluded from net family assets since her non-necessary personal property does not exceed $54,898. • Anticipated income recorded on the 50059: $0

EXAMPLE 2: BANK ACCOUNTS
• Brett Dawes has the following: - A savings account worth $8,000 that earns $1 in interest annually. - A non-interest-bearing checking account worth $100
• The checking and savings accounts are excluded from net family assets since his non-necessary personal property does not exceed $54,898. • Anticipated income recorded on the 50059: $1

When verification of checking or savings accounts is required, the O/A must obtain a minimum of one statement. The O/A establishes policy for determining the value of accounts, i.e.: beginning balance, ending balance.

INVESTMENT ACCOUNTS

HUD considered financial investments like stocks, bonds, savings certificates, money market funds, and other investments as non-necessary personal property.

- When the combined value of all non-necessary personal property is greater than $52,787, as adjusted by inflation, financial investments are considered part of net family assets.
- When the combined value of all non-necessary personal property does not exceed $52,787, as adjusted by inflation, financial investments are excluded from net family assets.

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Actual income from financial investments is always included in a family's annual income. Anticipated income must be recorded on the 50059 for every asset, regardless of the total value of net family assets.

- When a stock issues dividends in some years but not others, 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.

TRUSTS

HUD Handbook 4350.3

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).

There are two types of trust: revocable and irrevocable.

- 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.

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.

When the creator sets up an irrevocable trust, the creator has no access to the funds in the account.

- The beneficiary frequently will be unable to touch any of the trust funds until a specified date or event (e.g., the beneficiary's 21st birthday or the grantor's death). In some instances, the beneficiary may receive the regular investment income from the trust but not be able to withdraw any of the principal.
- The beneficiary and the grantor may be members of the same family. A parent or grandparent may have placed funds in trust to a child. If the trust is revocable, the funds may be accessible to the parent or grandparent but not to the child.

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FR 5.603(b)(4)

For **revocable** trusts:

- A revocable trust that is under the control of the household is included in net family assets when the grantor is a member of the assisted household.
- 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, rental income if property is held in the trust.
- 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, the value of the trust is excluded from net family assets. For the revocable trust to be considered excluded, no household member may be the account's trustee.

For **irrevocable** trusts:

- Irrevocable trusts are not under the control of the household. They are excluded from net family assets.
- Where an irrevocable trust is excluded from net family assets, actual income earned by the trust is excluded for as long as the income from the trust is not distributed.

For both irrevocable and revocable trusts, if the value of the trust is not considered part of the family's net assets, then:

- Distributions of the principal or corpus of the trust are excluded;
- Distributions of income earned by the trust (i.e. interest, dividends, realized gains, and other earnings on the trust's principal), are included;
- Except distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor are excluded.

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EXAMPLE: IRREVOCABLE TRUST
• Candy Kim has an irrevocable trust established by her parents for her care. • Last year she received $18,000 payable in $1,500 monthly increments. • The attorney managing the trust reported that $3,500 of the funds were interest and $14,500 was principal.
• Since the trust is irrevocable, it is not counted as an asset. • The $3,500 in interest payments each year are counted as income. • The $14,500 in principal is not counted as income.

JOINTLY OWNED ASSETS

Notice H 2023-10

Jointly owned assets are assets owned by the family and one or more individuals outside of the assisted family.

The owner must include the total value of the asset in the calculation of net family assets, unless the asset is otherwise excluded or unless the assisted family can demonstrate that the asset is inaccessible to them, or that they 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 shall be 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 that income is specifically excluded or unless the family demonstrates that they do not have access to the income from that asset, or that they only have access to a portion of the income from that asset.

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.

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LUMP SUMS

24 CFR 5.609(b)(24)

One time lump-sum payments such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains, and settlements for personal or property losses are considered in net family assets when these one-time payments are retained in an asset that is not excluded from the definition of net family assets.

- A lump sum for a deferred periodic payment (such as unemployment and disability compensation, workers compensation, child support and severance pay) is included in annual income.
- The exception to the deferred periodic payment rule is a lump sum for the delayed start of Social Security or SSI benefits, or a lump sum or prospective monthly amounts of deferred disability benefits from the Department of Veterans Affairs. Lump sums for the delayed start of these payments are not included in annual income and only become assets if the lump sum is retained in an asset that is not excluded from the definition of net family assets.

FEDERAL TAX REFUNDS OR REFUNDABLE TAX CREDITS

24 CFR 5.603(b)(3)(xi)

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.

Notice H 2023-10

If the federal tax refund was received during the 12 months preceding the effective date of the family's annual or interim recert, then the amount of the refund that was received by the family is subtracted from the family's net family assets.

- When the subtraction results in a negative number, then the balance of the asset is considered $0.

Owners are not required to verify the amount of the family's federal tax refund or refundable tax credit(s) if the family's net assets are equal to or below $54,898 (adjusted annually for inflation), even in years when full verification of assets is required or if the owner does not accept self-certification of assets.

Owners must verify the amount of the family's federal tax refund or refundable tax credits if the family's net assets are greater than $54,898.

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

EXAMPLE: TAX REFUNDS
• Chris Erickson received a $4,500 federal tax refund on 3/1. • He deposited the entire refund into his checking account. • The checking account is his only asset. • At his 8/1 annual, he self-certifies that his account balance is $10,000. • He reports his actual income from the checking account is $100.
• The owner must subtract the $4,500 tax refund from the account's $10,000 balance. • The cash value of the checking account to be counted toward net family assets is $5,500. • Since his non-necessary personal property is less than $54,898, the owner excludes the entire checking account from his net family assets. • The owner includes $100 as anticipated income.

Life Insurance Policies

The cash value of life insurance policies available to the individual before death is included in net family assets.

- For example, the surrender value of a whole life policy or a universal life policy.
- The face value of the policy is not considered an asset.

Assets do not include the value of a term life insurance policy which has no cash value to the individual before death.

Retirement Accounts

24 CFR 5.603(b)(3)(iii)

Exclude from net family assets 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.

24 CFR 5.609(b)(26)

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 are excluded from annual income.

- In other words, any income earned on the funds while stored in a retirement account is not considered actual income from an asset.

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

Example: Retirement Accounts
• Hannah Hall (age 72) has an IRA. • Current balance is $200,000. • The account pays approximately 2% interest annually. • She receives monthly payments from the account of $800.
• The account is not an asset. • The 2% interest earned on the account is not anticipated income since the account is not an asset. • However, the monthly payments are considered income.

OTHER ASSET EXCLUSIONS

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, which resulted in a family member being a person with a disability.

The value of certain education savings accounts such as Coverdell, 529, ABLE, or "baby bond" account created, authorized, or funded by federal, state, or local government.

Equity in a manufactured home where the family receives HCV assistance.

Equity in property under the Homeownership Option for which a family receives HCV assistance.

Family Self-Sufficiency accounts.

Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family.

Interest in Indian Trust lands.

The entire value of an Achieving a Better Life Experience (ABLE) account.

- Distributions from the account and actual or imputed income on the account is not counted as income.
- See Notice H 2019-06

Section 8 Calculating Income from Assets

NET FAMILY ASSETS

24 CFR 5.603(b)(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.

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.

Market value – Reasonable costs to convert an asset to cash = Net cash value

CFR 5.603(b)

To determine net family assets, the owner must calculate the net cash value of each asset. Net cash value of an asset is the market value less reasonable expenses that would be incurred by the family to sell or convert the asset to cash.

- Market value is what an asset is worth.
- The cash value of an asset is the amount the family would actually receive if the asset were converted to cash.
- The family is not required to actually convert an asset to cash.

Net family assets is the net cash value of all assets added together.

INCOME FROM ASSETS

Income or returns from assets are generally considered to be interest, dividend payments, or other actual income earned on the asset.

Income from assets must be included in the family's income on the 50059.

Some assets generate no income, such as:

- Non-interest-bearing checking account
- Non-necessary items of personal property such as a recreational boat

Many assets do generate income, such as:

- Interest on savings accounts
- Dividends from stock

Notice H 2023-10

Unless the income is specifically excluded, actual income from assets is always included in the family's annual income.

- Regardless of the total value of net family assets.
- Regardless of whether the asset itself is included or excluded from net family assets.

Income from assets is always anticipated, regardless of the certification type.

NET FAMILY ASSETS OF AT OR BELOW THE HUD-DETERMINED THRESHOLD

When **net family assets are valued at or below the HUD-determined threshold** (as adjusted annually for inflation), the owner may accept the family's self-certification that their assets do not exceed the HUD-determined threshold, without taking any additional steps to verify the accuracy of the declaration.

However, the owner is required to obtain third-party verification of all assets, regardless of the amount, at least once every three years.

This policy is optional. The owner may still verify all family assets regardless of the amount. The owner policy must address whether families may self certify assets.

If the owner allows for self-certification, the declaration must include the amount of income the family expects to receive from assets. The owner must include the amount on the family's declaration in the family's income on the form HUD-50059. The owner does not calculate income from assets in this case because the owner must use the amount on the family's self-certification.

Regardless of whether the owner uses self-certification or third-party verification, actual income from assets must be included on the 50059.

24 CFR 5.609(b)(1)

When net family assets are valued at or below the HUD-determined threshold as adjusted annually for inflation, owners may not calculate imputed returns as family income.

NET FAMILY ASSETS EXCEEDING THE HUD-DETERMINED THRESHOLD

When **net family assets have a total value over the HUD-determined threshold** as adjusted annually for inflation, the owner may not rely on the family's self-certification. Instead, the owner must obtain third-party verification of all assets and must calculate income using the following method:

- If actual returns (income) can be calculated, the owner includes actual income for each asset, which is calculated by using the market value x interest rate or rate of return.
- If actual returns cannot be calculated, imputed returns are included based on the current passbook savings rate, as determined by HUD. The current HUD-determined passbook rate is 0.38%.
- If the owner is able to calculate actual returns from some assets and unable to calculate actual returns from others, the owner uses the actual returns from those assets where the rate of return is known and uses an imputed calculation for those assets where it is unknown. The owner then adds all asset income together in order to determine final assert income.
- 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 no-interest-bearing bank account or a stock that does not issue cash dividends), then the asset generates zero actual asset income, and imputed income is not calculated.

The passbook rate is never applied when net family assets are at or below the HUD-determined threshold. The passbook rate is only applied when net family assets exceed the HUD-determined threshold and only to those assets where the rate of return is unknown.

Section 9 Assets Disposed of for Less than Fair Market Value

24 CFR 5.603(b)(2)

In determining net family assets, owners must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value during the two years preceding the date of application for the program or recertification, as applicable, in excess of the consideration received therefor.

- Including a disposition in trust, but not in a foreclosure or bankruptcy sale.
- 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.

The cash value listed on the 50059 is the difference between the actual cash value of the asset and the amount received.

EXAMPLE: ASSETS DISPOSED OF FOR LESS THAN MARKET VALUE
Angela Smith is a current resident. Last month she sold her home to her daughter for $5,000. She spent the $5,000 lump sum paying off credit card debt. The home was valued at $90,000 and had no loans secured against it. Ms. Smith paid broker's fees and settlement costs of $15,000. This was her only asset.
$90,000 - $15,000 in expenses to convert to cash $75,000 cash value - $5,000 received when disposed $70,000 asset disposed of
• The amount to be included in net family assets for 2 years from the date of sale is $70,000. • The actual anticipated income from the asset is $0 since Ms. Smith sold the home. Since actual income cannot be calculated, and the total net cash value of her assets is $52,787 or greater, the owner will use the HUD-determined passbook rate to calculate anticipated income. • The $5,000 she received from her daughter is a lump sum. It is not income. It is not an asset since it was not retained as an asset.

Section 10 Adjusted Income

24 CFR 5.611

Adjusted Income is annual income after making mandatory deductions for:

- Dependents
- Elderly or disabled families
- Child care expenses
- Health and medical care expenses
- Disability assistance expenses.

ELDERLY/DISABLED ALLOWANCE

CFR 5.403 and CFR 5.611(a)(2)

For certifications effective January 1 through December 1, 2027, the elderly/disabled allowance increased to $575.

Families where the head, spouse, or cohead is a person who is at least 62 years of age or a person with disabilities qualify for the allowance.

The amount will be adjusted annually for inflation, rounded to the next lowest multiple of $25. HUD will announce the adjustment no later than September 1 each year. Owners must implement the adjusted deduction for all recertifications effective January 1 or later of that year.

If both the head of household and spouse or cohead are elderly or disabled, the allowance is not doubled.

DEPENDENT ALLOWANCE

24 CFR 5.603(b) and 24 CFR 5.611(a)(1)

For certifications effective January 1 through December 1, 2026, the dependent deduction increased to $525 for each family who is:

- Under 18 years of age, or
- Over 18 and
  - A full-time student, or
  - A person with a disability

The amount will be adjusted annually for inflation, rounded to the next lowest multiple of $25. HUD will announce the adjustment no later than September 1 each year. Owners must implement the adjusted deduction for all recertifications effective January 1 or later of that year.

The head, spouse, cohead, foster children, foster adults, and live-in aides are never dependents.

Also impacts:

- Earned income included for a dependent FT student
  - Exclude earned income in excess of the dependent deduction
- Income included for adoption assistance payments
  - Exclude adoption assistance payments in excess of the dependent deduction

CHILD CARE EXPENSES

HUD Handbook 4350.3 Chapter 5,
24 CFR 5.603 (b) and
24 CFR 5.611 (a)(4)

Reasonable, unreimbursed child care expenses paid by the family for the care of children under 13 years of age (age 12 and under) may be deducted where the care is necessary to enable a family member to:

- Actively seek employment;
- Be gainfully employed; or
- Further his/her education.

The expense may not be reimbursed by any agency or individual outside the home.

Owners determine whether child care costs are reasonable

Child care expenses deducted to permit employment may not exceed the amount of employment income included in annual income.

- When more than one family member works, the owner must determine which family member is being enabled to work because child care is provided.
- A general rule is to assume that the child care expenses enable the lowest paid individual to work unless this is obviously not the case.

EXEMPTION TO CONTINUE THE CHILD CARE DEDUCTION

24 CFR 5.611(d)

A family whose eligibility for the child care expense deduction is ending may request a financial hardship exemption to continue receiving the deduction.

The owner must recalculate the family's adjusted income and continue the child care deduction if the family demonstrates to the owner's satisfaction that the:

- Family is unable to pay their rent because of the loss of the child care expense deduction; and
- Child care expense is still necessary even though the family member is no longer employed or furthering their education.

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

The owner may, at its discretion, extend the hardship exemptions for additional 90-day periods based on family circumstances.

The owner 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.

The owner may terminate the hardship exemption if they determine that the family no longer needs it.

The owner must establish a policy on what constitutes a hardship.

EXAMPLE: CHILD CARE HARDSHIP
Ms. Branch had been paying $250 per week out-of-pocket for her child Violet to attend childcare while she worked at a local coffee shop. Ms. Branch became unemployed when the coffee shop permanently closed. She reports she will be going to school in two months.
Although Ms. Branch has the availability to watch Violet, the child-care center has a long waiting list, and if Ms. Branch pulls Violet out temporarily, she would likely be without reliable childcare when she starts college. Continuing to pay child-care expenses while not receiving earned income has made the family unable to pay their rent portion.
The owner determined that Ms. Branch met the hardship exemption criteria and is unable to pay rent. The owner will allow Ms. Branch to continue to receive the child-care expense deduction for 60 days.

DISABILITY ASSISTANCE EXPENSES

CFR 5.603(2)(b) and CFR 5.611(3)(ii)

Families may deduct reasonable anticipated expenses for attendant care and auxiliary apparatus for family members with disabilities:

- If they are necessary to enable any family member to be employed (This may be the family member with the disability).
- Provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

This deduction may not exceed the combined earned income received by family members who are able to work because of such qualified expenses.

This allowance is equal to the amount by which the cost of the care attendant or auxiliary apparatus (in combination with any health and medical care expenses) exceeds 10 percent of annual income.

- Families experiencing a hardship due to the increase may be eligible for a hardship exemption. Hardship exemptions are discussed later in this section.

Auxiliary apparatuses are items such as wheelchairs, ramps, adaptations to vehicles, or special equipment to enable a blind person to read and write, but only if these items are directly related to permitting the disabled person or other family member to work.

When a care provider takes care of children age 12 and under, plus a person with disabilities who is 13 years of age or older, expenses must be prorated appropriately since rules differ in treatment of child care and disability assistance expenses.

HEALTH AND MEDICAL CARE EXPENSES

24 CFR 5.603(2)(b) and 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 10 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 health and medical care expenses of all family members are counted.

Eligible expenses are those that are paid or anticipated during the period for which annual income is computed.

24 CFR 5.603(b)(2)

HUD regulations define health and medical care expenses as 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.

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 owners to specifically align their policies with IRS Publication 502.

Owners must review each expense to determine whether it is eligible in accordance with HUD's definition of health and medical care expenses.

HARDSHIP EXEMPTIONS

As discussed above, HOTMA increases the threshold for unreimbursed health and medical care expenses and/or the disability assistance expense deductions to 10 percent-up from 3 percent under the previous regulations.

As such, the new regulations provide for two types of hardship exemptions categories for families that qualify for unreimbursed health and medical care expenses and/or disability assistance expenses.

- Phased-in relief: Families already receiving the deduction
- General relief: Families who can demonstrate a financial hardship

Phased-in relief is for families who qualified for and were taking one or both of the deductions prior to the date the PHA begins implementing the relief or the applicable HOTMA compliance deadline established by notice, whichever occurs first (when the threshold amount was 3 percent rather than 10 percent). These families will begin receiving relief at their next annual or interim reexamination, whichever occurs first after that date.

For these families, the threshold amount of 10 percent must be phased in over a 24-month period:

- 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.

Note: In instances where the first transaction for the family following full HOTMA compliance is a non-interim update, the applicable threshold for the family remains at 3 percent. The PHA applies the 5 percent threshold at the family's first interim or annual reexamination following the date the PHA begins compliance.

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EXAMPLE: MS. BELL
ABC PHA implements full HOTMA on 1/1/27. Ms. Bell's annual reexam is due on 6/1/27, which is her first reexam after the PHA's HOTMA compliance date. She was receiving a deduction for unreimbursed health and medical care expenses at her 6/1/26 annual reexam. The PHA did not perform any interims for her after her annual in 2026. She qualifies for phased-in relief since she was receiving a health and medical care expenses deduction at her most recent income review prior to 1/1/27. At her 6/1/27 annual reexam, Ms. Bell's annual income is $10,000. Her unreimbursed health and medical care expenses are $800. The PHA applies a 5% threshold since she qualifies for phased-in relief.
• $10,000 annual income x 5% = $500 threshold • $800 in expenses - $500 threshold = $300 deduction
The PHA processes an interim for her on 9/1/27 based on a change in her unearned income. The PHA continues to use the 5% threshold since the 5% threshold is applied for 12 months from her 6/1/27 annual. At her 6/1/28 annual, the PHA applies the 7.5% threshold. At her 6/1/29 annual, the PHA applies the 10% threshold.

EXAMPLE: CALCULATION OF PHASED-IN RELIEF
John and Heidi qualify for phased-in relief. Their annual income is $40,000. The owner verifies their out-of-pocket health and medical care expenses are $5,000.
• The family is eligible for a deduction totaling the sum of expenses that exceeds 5% of annual income for the first 12 months. $40,000 x 5% = $2,000 $5,000 - $2,000 = $3,000 in health and medical care expenses 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. $40,000 x 7.5% = $3,000 $5,000 - $3,000 = $2,000 in health and medical care expenses for the second 12 months
• At the conclusion of 24 months, the standard threshold amount of 10 percent would be used. $40,000 x 10% = $4,000 $5,000 - $4,000 = $1,000 in health and medical care expenses

Prior to the end of the 24-month period, the family may request a hardship exemption under the second category 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.

The general relief hardship is for families that can demonstrate:

- Their health and medical care and/or disability assistance expenses increased; or
- The family's financial hardship is a result of a change in circumstances (as defined in owner policy) that would not otherwise trigger an interim recertification.

The family may request a hardship exemption under the second category regardless of whether the family previously received the health and medical care and/or disability assistance deductions or are currently or were previously receiving relief under the first category.

If the family qualifies under the second category, the family will receive a deduction for the sum of eligible expenses that exceed 5 percent of annual income.

The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever is earlier.

However, the owner may, at its discretion, extend the relief for one or more additional 90-day periods while the family's hardship condition continues.

EXAMPLE: GENERAL RELIEF
Tara and Maurice qualify for the health and medical expenses care deduction. They recently had an increase in their medical expenses and are requesting a general relief hardship exemption. The owner grants the exemption. Their annual income is $30,000. The owner verifies their out-of-pocket health and medical care expenses are $8,000.
• The family is eligible for a deduction totaling the sum of expenses that exceeds 5% of annual income. $30,000 x 5% = $1,500 $8,000 - $1,500 = $6,500 in health and medical care expenses for 90 days
• At the conclusion of 90 days, the family no longer requires the hardship exemption. $30,000 x 10% = $3,000 $8,000 - $3,000 = $5,000 in health and medical care expenses

REQUIREMENTS FOR HARDSHIPS

Notice H 2023-10

For both the child care and medial/disability assistance hardship categories, owners must establish policies:

- Regarding the types of circumstances that will allow a family to qualify for hardship exemptions
- When the deductions may be eligible for 90-day extensions
- Requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable

The owner may not conduct an interim to add, remove, or to extend a hardship exemption unless another change triggers an interim. Instead, the owner will submit a non-interim recertification transaction.

Owners must promptly notify families in writing if they are denied either an initial hardship exemption or an additional 90-day extension of the exemption. The notification must specifically state the reason for the denial.

If the hardship is approved, owners must promptly notify families in writing of the change in the determination of adjusted income and the family's rent resulting from the hardship exemption. The written notice must inform the family of the dates that the hardship exemption will begin and expire and the requirement for the family to report to the owner if the circumstances that made the family eligible for relief are no longer applicable. The notice must also state that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption. owners must provide families 30 days' notice of any increase in rent.

Owners must notify the family if the hardship exemption is no longer necessary and 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.

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Section 11 Consent Forms

AUTHORIZATION FOR THE RELEASE OF INFORMATION (FORM HUD-9887)

The Form HUD-9887 and HUD-9887-A (Fact Sheet) are consent forms that authorize HUD and the owner to obtain necessary information for verification of an application or to maintain a family's assistance, including income information and tax return information. The form includes language allowing owners to obtain financial records from financial institutions whenever the owner determines that such a record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits.

HUD changed the requirements governing when the Form HUD-9887 is signed as part of HOTMA. All applicants must sign the Form HUD-9887 at move-in. Residents will be required to sign an updated form on or after January 1, 2024. After an applicant or resident has signed and submitted the updated Form HUD-9887, they will not be required to sign the form again, except under the following circumstances:

- When any person 18 years or older becomes a member of the family;
- When a member of the family turns 18 years of age; and
- As required by HUD in administrative instructions.

The executed consent forms will remain effective until the family is denied assistance, the assistance is terminated, or if the family provides written notification to the owner to revoke consent.

The owner has the discretion to establish policies around when family members must sign the consent forms when they turn 18 between recertifications and must establish these policies in their TSPs, if requiring family members to sign consent forms at intervals other than at recertification.

The owner may not process interim or annual recertifications of income, including when a family's income decreases and the family requests an interim recertification to decrease tenant rent, without the family's executed consent form(s).

Revocation of consent or refusal to sign the consent forms prohibits the owner from requesting and accessing income information and financial records, including pulling EIV reports and using the EIV data to verify income (although the data matches between HUD and other agencies will continue to occur automatically if the family is not terminated from the program). Families have the right to revoke consent by providing written notice to the owner; however, revoking consent may result in termination of assistance or denial of admission, if the owner has a policy that the revocation of consent will result in termination of assistance or denial of admission. When owners do not establish such a policy, the family is required to sign a new consent form by the next recertification, whichever occurs first, in order to avoid termination of assistance or be reviewed for eligibility for admission. owners must explain to families the consequences, if any, of revoking their consent. Owners must notify their local HUD office of a family's revocation of consent.

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Section 12 Streamlined Verification Options

MEANS-TESTED FEDERAL ASSISTANCE PROGRAMS

O/As 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.

O/As are not required to accept or use determinations of income from other federal means-tested forms of assistance.

If the O/A adopts a policy to accept this type of verification, the TSP must establish in policy:

- When they will accept Safe Harbor income determinations
- From which programs the O/A will accept Safe Harbor determinations
- The course of action when families present multiple verifications from the same or different acceptable Safe Harbor program.

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

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- 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 O/A 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, O/As 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 O/A:

- 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 O/As 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 O/A. O/As are not permitted to mix and match Safe Harbor income determinations and other income verifications.

If the O/A is unable to obtain Safe Harbor documentation or if the family disputes the other program's income determination, the O/A must calculate the family's annual income using traditional methods as outlined in Notice H 2023-10.

If the O/A uses a Safe Harbor determination to determine the family's income, the family is obligated to report changes in income that meet the O/A'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. O/As are therefore required to obtain third-party verification of the applicable employment income and cap the respective expense deductions accordingly.

The O/A is not required to use the EIV Income, IVT, or New Hires reports at annual reexam if a Safe Harbor income determination is used.

Fixed Sources of Income

O/As may adopt policies for streamlining the annual reexamination verification process for fixed sources of income.

While third-party documentation must be obtained during the intake process and at least once every three years thereafter, in the intervening years, the O/A may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or other inflationary adjustment factor.

Streamlining policies are optional. O/As may choose to obtain third-party verification for every annual reexamination.

The O/A may choose to verify income from fixed sources at admission and once every three years thereafter.

Fixed income sources include periodic payments such as Social Security, SSI, government and private pensions, annuities and other retirement programs, and other income sources subject to a verifiable 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.

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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 O/A 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 O/As may choose to adjust sources of non-fixed income based on third-party verification. O/As 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.
  - Example: Manual receives $1,000 a month in Social Security and a $50 regular contribution from his mother who does not live with him. The O/A must third-party verify all income at admission. In years two and three, the O/A may apply the COLA (if any) to his Social Security income and is not required to verify the regular contribution from his mother.
- When less than 90 percent of a family's unadjusted income is fixed, O/As must apply a COLA to each of the family's sources of fixed income. All non-fixed income must be verified annually.
  - Example: Marla receives $500 from SSI and a $500 regular contribution from her father each month. The O/A must third party verify all income at admission. In years two and three, the O/A may apply any adjustment to the pension and must verify the regular contribution from her father.

The O/A must use the COLA that applies to each specific source of fixed income.

The COLA or interest rate must be verified through a public source or tenant-provided third-party documentation. If no public verification or tenant-provided documentation of the COLA is available, then the owner must obtain third-party verification of the income amounts in order to calculate the change in income for the source.

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Section 13 Verification Hierarchy

THIRD-PARTY VERIFICATION

When the owner does not use a streamlined or Safe Harbor income determination, HUD requires the owner to obtain third-party verification of:

- Reported family annual income
- The value of net family assets when the net value exceeds the HUD-determined threshold as adjusted annually
- Expenses related to deductions from annual income
- Other factors that affect the determination of adjusted income.

Notice H 2023-10 describes the verification hierarchy which lists documentation requirements from most to least acceptable. The owner must demonstrate efforts to obtain third-party verification prior to accepting self-certification, except in instances when self-certification is explicitly allowed.

- 6 – Highest: Upfront Income Verification (UIV) using EIV
- 5 – Highest: UIV using non-EIV systems
- 4 – High: Written, third-party from the source or EIV + self-certification
- 3 – Medium: Written, third-party verification form
- 2 – Medium: Third-party oral verification
- 1 – Low: Self-certification

UPFRONT INCOME VERIFICATION (UIV) USING EIV

UIV is the verification of income, before or during a recertification, through an independent source that systematically and uniformly maintains income information in computerized form for a large number of individuals.

HUD's Enterprise Income Verification (EIV) system is a type of UIV that provides owners with employment, wage, unemployment, and social security benefit information for tenants in multifamily housing.

- The information is obtained through computer matching between HUD, SSA, and HHS.

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The EIV Income Report is mandatory for annual recertifications, except when the Owner uses Safe Harbor verification of income. The report is optional for interim recertifications and is not available for applicant families or new members added to currently assisted households.

When required, the owner must pull the EIV Income Report within 120 days of the effective date of the annual.

HUD intends to update the discrepancy logic for Income Discrepancy Reports to conform to the requirements of the final rule.

- Owners are not required to investigate discrepancies resulting from the Income Discrepancy Reports until HUD updates the discrepancy logic.
- HUD will notify owners when the new reports are ready for use.

UIV Using Non-EIV Sources

While using EIV is mandatory, UIV using other sources is optional. It is used to validate tenant-reported income by accessing sources like:

- The Work Number
- State government databases/SWICA
- State TANF systems
- Credit Bureau Association (CBA) credit reports
- Internal Revenue Service (IRS) – tax transcript
- Request with IRS form 4506-T

WRITTEN THIRD-PARTY FROM THE SOURCE OR 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 O/A 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.

WRITTEN THIRD-PARTY VERIFICATION FROM THE SOURCE

An original or authentic document generated by a third-party source, dated within 120 days of the date received by the O/A.

- Includes documents provided by the family.
- For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation.
- The O/A may use verification obtained during an interim for an annual if there have been no other changes to income since the interim.

For 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/letters of hire/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.

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The O/A is required to obtain, at minimum, two current and consecutive pay stubs for determining annual income from wages.

For new sources of income where pay stubs are not available, the O/A should use a traditional third-party verification form or the best available information.

When the family disputes EIV-reported employment income, the O/A uses written third-party verification.

The O/A 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.

- The O/A must explain this to the family and request additional documentation

WRITTEN THIRD-PARTY VERIFICATION FORM

This form of verification is also known as traditional third-party written verification. A written third-party verification form is a standardized form used to collect information from a third-party source.

Tenant-provided documents generated by a third-party rank higher than third-party forms.

O/As may mail, fax, or email third-party written verification form requests to third-party sources.

The O/A may use this method when higher forms are unavailable or are rejected by the O/A or when the family is unable to provide acceptable verification.

The O/A may skip this level of verification and may instead substitute oral third-party verification before moving to self-certification.

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ORAL THIRD-PARTY VERIFICATION

For third-party oral verification, O/As 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 form have not been returned within a reasonable time-e.g., 10 business days.

- O/As 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 O/A 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.

SELF-CERTIFICATION

Non-third-party verification consists of a signed statement of reported income and/or expenses. This verification method should be used as a last resort when the O/A has not been successful in obtaining information via all other required verification techniques.

When the O/A was required to obtain third-party verification but instead relies 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.

Self-certification, however, is an acceptable form of verification when:

- A source of income is fully excluded
- Net family assets total $50,000 or less and the PHA has adopted a policy to accept self certification
- The family declares that they do not have any present ownership in any real property

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- A family states that they have non-recurring income that will not be repeated in the coming year; and/or
- The PHA has adopted a policy to implement streamlined annual recertifications for fixed sources of income

VERIFYING EXCLUDED INCOME

For fully excluded income, the O/A is not required to:

- Follow the verification hierarchy
- Document why third-party verification is not available
- Report the income on the 50059

Fully excluded income is defined as income that is entirely excluded from the annual income determination, such as food stamps.

O/As may accept a family's signed application or recertification 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, O/As have the option of requiring additional verification.

For partially excluded income, the O/A is required to:

- Follow the verification hierarchy and all applicable regulations
- Report the income on the 50059

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, such as the income of an adult full time student.

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Section 14 Calculating Income

The methodology used for calculating income differs depending on whether income is being calculated at move-in/initial assistance, interim, or annual recertification.

However, income from assets is always anticipated regardless of certification type.

Income at Move-in and Interim

At initial occupancy and for interim recerts, the owner must use anticipated income (current income) for the upcoming 12-month period following the effective date. In other words, we are projecting income using current circumstances.

Income at Annual Recertification

Owners must first determine the family's income for the previous 12-month period and use this amount as the family income; however, adjustments to reflect current income must be made, except where Safe Harbor or a streamlined income determination is used.

Any change of income since the family's last annual, including those that did not meet the threshold to process an interim, 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 income.

Step 1

Determine annual income for the previous 12-month period by reviewing:

- EIV Income Report pulled within 120 days of the effective date of the annual;
- Income reported on the most recent HUD-50059; and
- Amount of prior-year income reported by the family on the annual recert paperwork.

STEP 2

Take into consideration any interim completed since the last annual

- If there was an interim, use the annual income from the interim to determine the family's total annual income, provided there are no additional changes.
- If there was no interim or there have been changes since the last recert, move to Step 3.

STEP 3

If there were changes not processed by the owner since the last recert:

- The owner must use current income, and
- The owner must follow the verification hierarchy.

If there were no changes since the last recert, the owner may use documentation of prior-year income to calculate the annual income, including:

- EIV + self-certification (when the family agrees)
- For wages, SSI, SS, and unemployment
- Current written third-party verification from the source verifying prior-year income that is dated within 120 days of receipt by the owner.

If the owner notes discrepancies between EIV and what the family reports, the owner must follow the verification hierarchy.

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Section 15 Rent Calculation

HUD Handbook 4350.3, Section 4

After the verification of an applicant's or resident's income, assets, and deductions have been completed, the owner must then calculate the household's tenant rent and the monthly assistance amount. Owners are required to calculate each applicant's or resident's rent prior to move in, at the time of annual recertification, and at the time of any interim recertification.

DEFINITIONS

- **Contract Rent**: The amount of rent an owner is entitled to collect to operate and maintain the property. This rent amount is approved by HUD or the Contract Administrator (CA) at the time of contract renewal or annual rent increase. (Note: In the Section 236 programs this is known as the basic rent.)
- **Gross Rent**: The contract rent plus the utility allowance. (Note: In Section 202 and 811 PRACS, this is the same as the operating rent.)
- **Housing Assistance Payment (HAP)**: The payment made by HUD or the CA to the owner of an assisted unit that equals the gross rent minus the TTP.
- **Market Rent**: The amount HUD allows the owner to **collect from families who are ineligible for assistance.**
- **Section 8 Minimum Rent**: The lowest TTP permitted for residents receiving assistance. Tenants in Section 8-subsidized units must pay a minimum TTP of $25.
- **Tenant Rent (TR)**: The amount payable each month by the family as rent to the owner.
- **Total Tenant Payment (TTP)**: The amount the tenant pays toward rent and utilities. The TTP for Section 8, PAC, PRAC, RAP, and Rent Supplement properties is based on the family's income.
- **Utility Allowance (UA)**: HUD or the CA's estimate of the average monthly amounts tenants will pay for utilities assuming normal consumption. If all utilities are included, there is not a utility allowance.

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- **Utility Reimbursement Payment (URP)**: The amount, if any, by which the utility allowance for a unit, if applicable, exceeds the TTP for the family occupying the unit. The tenant will pay no rent if they receive a URP.

TOTAL TENANT PAYMENT (TTP)

In **Section 8**, **PAC**, **PRAC**, and **RAP** properties, TTP is the greater of:

- 30 percent of monthly adjusted income;
- 10 percent of monthly gross income;
- Welfare rent (as-paid states only); or
- The $25 minimum rent (Section 8 only)

Section 8, RAP, and PAC programs may admit an applicant only if the TTP is less than the gross rent. In PRAC properties, the TTP may exceed the PRAC operating rent.

In **Rent Supplement properties**, TTP is the greater of:

- 30 percent of monthly adjusted income; or
- 30 percent of gross rent
- At move-in or initial certification, the amount of Rent Supplement assistance may be no less than 10 percent of the gross rent or the tenant is not eligible.

  Example*: The Gibsons are a Section 8-assisted household that lives at Happy Valley Apartments, which is located in Happy Town, California. Their income and TTP calculation is as follows:*

  Annual income: $20,000

  - *Monthly income: $20,000/12 = $1,667*
  - *10 percent of gross monthly income: $167*

  Adjusted income: $18,620

  - *Monthly adjusted income: $18,620/12 = $1,552*
  - *30 percent of adjusted monthly income: $466*

  Minimum rent: $25

  Welfare rent: n/a

  The family's TTP is $466.

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TENANT RENT

After the TTP has been determined, the owner must determine tenant rent. The tenant rent is calculated by subtracting the UA, if any, from the family's TTP. In some cases, tenant rent may be $0 or the family may receive a utility allowance reimbursement when the UA for the unit is greater than the family's income-based TTP.

- Note that the O/A has the option of making utility reimbursement payments not less than once per calendar year quarter when reimbursements total $45 or less.

Example: Tenant Rent Calculation	
Total Tenant Payment	*$466*
Utility Allowance	*$65*
Tenant Rent	*$466 - $65 = $401*

Example: URP Calculation	
Total Tenant Payment	*$35*
Utility Allowance	*$65*
Tenant Reimbursement	*$65- $35 = $30*

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HOUSING ASSISTANCE PAYMENT (HAP)

The HAP is the amount of assistance HUD sends to the owner for each assisted household. The HAP amount is the difference between the resident's TTP and the gross rent for the unit.

Example: HAP Calculation	
Total Tenant Payment	*$466*
Contract Rent	*$1000*
UA	*$70*
Gross Rent	*$1070*
HAP Amount	*$1070 - $466 = $604*

MINIMUM RENT HARDSHIP EXEMPTIONS

Tenants in Section 8-subsidized properties must pay a minimum TTP of $25. Minimum rent does not apply to Section 202 PAC, Section 202 PRAC, Section 811 PRAC, RAP, Rent Supplement, Section 221(d)(3) BMIR, or Section 236 programs. Minimum rent is used when 30 percent of monthly adjusted income, 10 percent of gross monthly income, and the welfare rent (if applicable) are less than $25.

Example*: The Diamond family's TTP calculation is as follows:*

Example: Minimum Rent	
10% of monthly	*$8*
30% of monthly adjusted	*$2*
Welfare rent	*n/a*
Minimum rent	*$25*
TTP	***$25***

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Owners must waive the minimum rent for any household that is unable to pay rent due to a long-term financial hardship. Financial hardship situations may include:

- Household has lost federal, state, or local government assistance or is waiting for an eligibility determination.
- Household would be evicted if the minimum rent requirement was imposed.
- Household income has decreased due to a change in circumstances, including but not limited to loss of employment.
- A death in the family has occurred.
- Other applicable situations, as determined by HUD, have occurred. Owner/agents should consult with their local HUD office or Contract Administrator for all other situations that could lead to a financial hardship.

When a resident requests a financial hardship, the owner may request reasonable documentation of the hardship to determine:

- Whether a hardship exists
- If the hardship is temporary or long-term

After receiving the requested documentation, within one week the owner should make a determination whether or not the family is experiencing a hardship. The owner may determine:

- *No hardship is present*: Immediately reinstate the minimum rent. The resident is responsible for paying any minimum rent that was not paid from the date rent was suspended. Owners may not evict the tenant for nonpayment of rent during the time the owner was making the hardship determination.
- *The hardship is temporary*: The owner may not impose the minimum rent requirement until 90 days after the date of the suspension. At the end of the 90 days, the resident is responsible for paying the minimum rent, retroactive to the original date of the minimum rent suspension. The owner may not evict the household for nonpayment of rent during the time the owner was making the determination or during the 90-day suspension period.

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- *The hardship is long-term*: The owner must exempt the resident from the minimum rent from the date the suspension was granted until the hardship no longer exists. The family must be recertified every 90 days to verify that circumstances have not changed.

If the owner determines the family has a hardship, the minimum rent is waived the first of the following month. TTP is then calculated using higher of 30 percent of adjusted monthly income or 10 percent of gross monthly income (or the welfare rent, if applicable). The TTP will not drop to zero unless those calculations all result in zero.

***Example**: The Diamond family requests and is granted a minimum rent hardship exemption.*

Example: Minimum Rent	
10% of monthly	*$8*
30% of monthly adjusted	*$2*
Welfare rent	*n/a*
Minimum rent	*$0*
TTP	***$8***

RAD PBRA: Rent Phase-In

In-place tenants at the time of conversion are protected from rent increases on the date of conversion. If their TTP would be different from the 50058 on the IC 50059, the owner must use the rent override option to enter an alternate TTP and TRACS will accept it. The owner must check to make sure the override flag is set only for the IC conversion process, and the default PBRA calculation rules will apply after conversion.

In-place tenants at the time of conversion are eligible to have rents phased in if, purely as a result of the conversion, the amount the tenant would pay for rent and utilities (TTP) would increase by more than the greater of 10 percent or $25. If that is the case, the tenant rent increase is phased in over a three or five-year phase-in period. The PHA must have a written policy in place at the time of conversion for the length of the phase-in. The PHA may choose either a three or five-year period, or a combination of the two.

- Example: The PHA may choose a three-year phase-in for smaller increases, and a five-year phase-in for larger increases.

The policy may not be modified after conversion.

If rent phase-in applies, the O/A must override the regular rent calculation by noting Y in the rent override field of the 50059.

The phase-in percentages of a three-year term are:

- At conversion- match 50058 TTP
- Year 1: 33 percent of the difference in the most recent TTP and the new TTP (any AR or IR)
- Year 2: 66 percent of the difference in the most recent TTP and the new TTP (any AR or IR)
- Year 3: Total calculated multifamily TTP

The phase-in ends when the multifamily housing TTP is equal to or less than the previous TTP, or at the end of the three or five-year phase-in period. The PHA must communicate this policy in writing to affected residents. See Notice H 2019-09 for examples of phase-ins.

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Example of a Three-Year Phase-In

Adam East is a former PH resident paying the $500 flat rent at the time of conversion, but his TTP should be $1,000 based on PBRA calculation rules, so the owner must follow the steps below:

- At conversion:
  - Rent override: Y
  - Total tenant payment: $500
  - TTP before override: $1000
  - TTP at RAD conversion: $500
    - No change on the date of conversion
- At the first AR let's say that the resident's rent has increased to $1,100
- TTP at AR: $1,100 - TTP at RAD conversion: $500 = difference of $600
- $600 x 33% = $198
- TTP at conversion: $500
- Amount to phase in: $198
- Year 1 TTP: $698
  - TRACS will be as follows:
    - Rent override: Y
    - TTP: $698
    - TTP before override: $1100
    - TTP at conversion: $500
- Year 2
  - Let's say that two months later the resident loses a job and their rent has now dropped to $600
    - More than it was at conversion but less than the last TTP resident was paying
  - O/A will conduct the IR and submit the 50059 data to TRACS
- This is the end of the phase-in for this household
- TRACS will be as follows:
  - Rent override: blank
  - TTP: $600
  - TTP before override: $600
  - TTP at conversion: $500
- At all IR or AR recertifications after this, the rent override will be left blank, and the TTP before override and TTP at conversion lines will also be left blank

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The percentages used in the preceding example are from the Notice PIH 2012-32 (REV-2) and are to be used in TRACS 202D. When TRACS 203A is released, the phase- in percentages will change to the amounts used in Notice H 2017-03 (REV-3). Owners are not to use these new percentage calculations until HUD publishes the new 203.A version of TRACS.

Section 16 Chapter 4 Post Test

1. Verifications must be dated within 60 days of the date of receipt by the owner.
   a. True
   b. False

2. The value of real property that the family does not have the legal authority to sell and the co-owner lives in it is excluded from net assets.
   a. True
   b. False

3. The earned income of a minor is included in annual income.
   a. True
   b. False

4. The checking account of a minor is never considered when determining net family assets.
   a. True
   b. False

5. The income of an independent contractor is excluded from annual income since it is sporadic.
   a. True
   b. False

6. When is non-necessary personal property considered an asset?
   a. When net assets are greater than
   b. When net assets are at or below the HUD-determined threshold
   c. Never. Non-necessary personal property is not an asset
   d. Always, regardless of the amount of the family's assets

7. Workers' compensation payments are always excluded from annual income regardless of how long they will last.
   a. True
   b. False

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8. Unemployment income is excluded because it has a discrete end date and will not be repeated after next AR.
   a. True
   b. False

9. How is annual income determined at move-in?
   a. Using current income and projecting forward for the next 12 months
   b. Using the income from the previous 12 months
   c. Asking the applicant what their income will be in the next 12 months

10. A family must be a HUD-defined disabled family in order to qualify for the disability assistance expense deduction.
   a. True
   b. False

11. Hannah Henry's gross monthly social security is $1,304, but after her $104 Medicare premium is taken out, she receives $1,200 a month. What is her gross annual income?
   a. $1,096
   b. $13,152
   c. $14,400
   d. $15,648

12. In order to qualify for the elderly/disabled deduction, who must be 62 or older or disabled?
   a. Any family member
   b. The head, spouse or cohead
   c. The head of household
   d. All of the above

13. The contract rent plus the utility allowances equals the gross rent.
   a. True
   b. False

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14. Gross rent minus TTP equals HAP.
    a. True
    b. False

15. The Martin household consists of Mary (age 62) and Saul (age 70) and their granddaughter, Lilly (age 5). Their total annual income is $26,000. They have no assets. Their total unreimbursed medical expenses are $2,000 annually. What is their adjusted income?
    a. $24,900
    b. $23,900
    c. $24,000
    d. $23,120

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Notes

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CHAPTER 5 Leasing

Section 1 Learning Outcomes and Overview

LEARNING OUTCOMES

Upon completion of this chapter, you should be able to:

- Recognize the general lease requirements for multifamily properties
- Identify the requirements concerning lead-based paint disclosure
- Describe the requirements and common rules governing pets in elderly/disabled and other multifamily developments
- Explain the benefit of developing house rules for properties and differentiate between reasonable and unreasonable house rules
- Recognize the need to include the Violence against Women Act (VAWA) lease addendum and describe the circumstances under which the owner may terminate or bifurcate a lease under VAWA requirements
- Identify the requirements for pet rules in elderly/disabled housing and explain the required topics
- Identify the allowable amounts to collect for security deposits under certain multifamily housing programs and other requirements relative to security deposits
- List and describe other charges owners may collect and identify the allowable amounts to collect under various multifamily housing programs

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Section 2 Move-in Inspections

HUD Handbook 4350.3, Section 6-29

Before a new resident signs the lease, the owner and resident must inspect the unit together. This gives the resident the opportunity to become familiar with the property and their unit and gives the owner the opportunity to explain the resident's responsibility for damages, upkeep, and maintenance protocol. The two parties must complete and sign/date a move-in inspection form to be kept in the resident's file.

The unit must be decent, safe, sanitary, and in good repair. Both the owner and the new resident must certify to this fact on the inspection form. If any cleaning or repairs are needed, the owner is required to specify issues on the inspection form and the date on which the work will be completed. All noted work must be completed no more than 30 days after the effective date of the lease. All residents have five days to report any other issues to the owner. The form must notify the residents of this right. The move-in inspection form must be kept and attached as part of the lease.

Lease Briefing Appointment

While applicant interviews are required prior to the owner's eligibility determination, a lease briefing is not required. It is, however, a best practice for owners to hold a briefing or leasing appointment with each approved applicant prior to move in to ensure the applicant understands the terms of the lease. Topics covered during the leasing appointment might include:

- Lease terms
- Annual and interim recertification requirements
- Rent amount and rent determination methods
- Security deposit requirements
- Lease addendums such as HUD-Form 50059, move-in inspection report, House Rules, etc.
- Charges other than rent
- Maintenance and damage charges

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Households should complete the leasing appointment prior to signing the lease to ensure they have a good understanding of their rights and responsibilities. HUD recommends that the appointment not take place on the same day the applicant signs the lease to ensure the household has time to think of questions before signing.

The information presented to the applicant should be clear and consistent. It may be useful for owners to create visual and media aids as well as an information packet to use at each leasing appointment.

Owners must ensure that they are able to communicate both orally and in writing with hearing and speech impaired individuals.

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Section 3 General Lease Requirements

HUD Handbook 4350.3, Section 6-5

HUD requires that owners use one of four model leases that identify the program requirements by which both the owner and resident must abide. While the majority of Multifamily programs must use one of HUD's four model lease documents, the specific lease used is dependent on the type of the program.

HUD HANDBOOK 4350.3, FIGURE 6-2

Form of Lease	Programs that Use the Lease
Model Lease for Subsidized Programs (Family Model Lease) (See **Appendix 4-A**.)	Section 221(d)(3) BMIR Section 236 Section 8 New Construction Section 8 Substantial Rehabilitation Section 8 State Agency (See Paragraph 6.5F) RHS 515 with Section 8 (See Paragraph 6.5 F) Section 8 Loan Management Set-Aside (LMSA) Section 8 Property Disposition Set-Aside (PDSA) Rental Assistant Payment (RAP) Rent Supplement
Model Lease for Section 202/8 or Section 202 PACs (See **Appendix 4-B**.)	Section 202 Programs for the Elderly and Persons with Disabilities in conjunction with Section 8 assistance *Prepaid Section 202/8 Loans*
*Model Lease for Section 202/8 or Section 202 PACs (See **Appendix 4-B,)**	Section 202 Programs for the Nonelderly Disabled Families and Individuals in conjunction with Section 162 assistance*
Model Lease for Section 202 PRACs (See **Appendix 4-C**.)	Section 202 Program of Supportive Housing for the Elderly
Model Lease for Section 811 PRACs (See **Appendix 4-D**.)	Section 811 Program of Supportive Housing for Persons with Disabilities
A model lease developed by a State Agency that complies with HUD rules and regulations	Section 8 State Agency
Occupancy Agreement	Assisted Cooperatives

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Please note that changes to the lease, either through correction to the actual model lease, or via attachment or addendum, are not allowed without prior HUD approval.

In Section 221(d)(3) BMIR properties, residents who are paying market rent, full contract rent, or 110 percent of the BMIR rent are not required to sign a HUD model lease.

Cooperatives are also not required to use a HUD model lease.

The lease may only cover the rental unit and services routinely provided at rental properties such as parking. Any special services offered at the property, such as meal programs or health care services, must have a separately executed agreement.

The head of household, spouse, cohead, and any other adult household members must sign and date the lease as well as the owner or owner's agent. If a resident household transfers to a new unit, HUD requires that a new lease be executed for the new unit.

RAD PBRA: Initial Lease Execution

All properties converting under RAD must use form HUD 90105-A Model Lease for Subsidized Programs. Leases for existing tenants must have an effective date equal to the HAP contract effective date. The lease must be signed by both the owner and the tenant on or before the HAP contract effective date. Tenants must also be provided with all attachments listed in paragraph 27 of the lease, including form HUD 50059 and 50059-A, the RAD PBRA Model Lease

Addendum (link at NMAReferences.com), and the property's house rules at the time the lease is signed.

Since RAD's inception, RAD PBRA properties have been required to incorporate additional resident rights into their house rules: their PH notification requirements; their PH grievance procedures; and the rules regarding Choice Mobility. As of October 2024, to ensure residents are informed of their rights and to simplify the inclusion requirements, HUD created an updated RAD PBRA Addendum to the Section 8 Model Lease that is considered a standard attachment to the Model Lease. For residents in properties converted prior to October 2024, the addendum must be signed by all adult family members for all existing households at their next AR. For new conversions during or after October 2024, the addendum must be signed at conversion when the initial lease is signed.

Note: The current addendum does not have an OMB number, and is therefore, a sample form. The property may have to alter the form if they receive a waiver to the Choice Mobility requirements from HUD. Owners should not alter any other part of the form, as that would require a separate HUD approval.

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LEASE TERMS

HUD Handbook 4350.3, Section 6-6

All initial and renewal leases must include a specific lease term or state the total length of the lease.

Most programs require an initial lease term of 12 months, or 365 days. Nothing less than this is allowed. For example, if the resident moves into the unit on April 15, 2024, the lease must run through April 14, 2025. A longer term is allowed. There are some programs under which HUD allows a longer or shorter initial term. Lease renewal terms also vary by program.

Note: At properties with housing assistance payment (HAP) contracts, if the HAP contract will be expiring within 12 months of lease execution and will not be renewed, the owner may execute an initial lease with a term of less than one year.

Required Lease Attachments

The following documents must be signed and attached to each executed lease as well as provided to the resident:

- Form HUD-50059: Must be signed by both the resident and the owner
- Form HUD-50059-A: Must be signed by the owner and the resident (when applicable)
- Move-in inspection form: Signed by the resident and the owner
- House Rules
- Lead-based paint disclosure form (if lead-based paint is present)
- Pet rules (if pets are allowed)
- Owner-developed live-in aide addendum (if applicable)
- Owner-developed police or security personnel addendum (if applicable)
- Violence against Women Act (VAWA) lease addendum

Information for Applicants and Residents

Move-in and every AR, the O/A must provide:

- EIV & You Brochure
- HUD 9887A Fact Sheet
- Fact Sheet - How Your Rent is Determined
- Residents' Rights and Responsibilities Brochure (new version is available at hud.gov)

Prior to signing the lease at move-in:

- Lead Based Paint Brochure (if applicable)

VAWA form HUD-5380, Notice of Occupancy Rights Under VAWA, and HUD-5382, the VAWA certification, must be provided at admission, and any time an adverse action notice is issued, such as a rejected application notice, a notice of termination of assistance, or an eviction notice.

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Lease Amendments for Rent Changes

HUD Handbook 4350.3, Section 6-11

When a resident's rent amount changes because of a change in income, gross rent, or the utility allowance, the printed and signed forms HUD-50059 or 50059-A serve as an addendum to the lease identifying the change in rent. The resident must be provided with a copy of forms HUD-50059 or 50059-A, and all original form HUD-50059 or 50059-As must be kept in the resident file.

Lease Modification

HUD Handbook 4350.3, Section 6-12

Any modifications to the lease provided by HUD Headquarters through published notices or revisions to the HUD Handbook 4350.3 must be incorporated into the lease as a lease addendum which do not require HUD field office or CA approval, although proper notice to residents is required.

While owners may not modify the terms and conditions of the model lease, they are permitted to modify the model lease by creating a lease addendum. This may be done to include requirements under state or local law or a management practice generally used by management agencies of assisted properties. Please remember that these changes must be HUD approved.

All modifications to the lease must be approved by HUD or the Contract Administrator (CA) in writing before the change may be implemented. Owners should consult their local HUD field office or CA for instructions on how best to submit modification requests. It is best practice for owners to ensure all state and local laws concerning lease modification are met as well. This will ensure the lease is in compliance with and enforceable under state and local law.

When the lease is modified, residents must be provided with notice of the change at least 60 days before the end of their lease term. The notice must:

- Include a copy of the revised lease or lease addendum;
- Inform the resident that they must accept the modification or move; and
- Indicate that their response is due within 30 days

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The notice must be sent by first class mail and by delivering a copy of the notice either to an adult household member or by posting the notice on the resident's door. The effective date of the notice is the date the notice was both mailed and delivered. This is important to remember when implementing lease modifications at the time of lease renewal; if the resident does not receive proper notice in a timely manner, the owner may not implement the new changes.

PROHIBITED PROVISIONS

The owner may not modify the following provisions of the model lease:

- Changes in tenant rent
- Regularly scheduled recertifications
- Reporting changes between regularly scheduled recertifications
- Removal of subsidy
- Tenant obligation to repay
- Discrimination prohibited
- Changes in rental agreement
- Termination of tenancy
- Penalties for submitting false information

The following provisions must not be included in a lease modification:

- Confession of judgment: Prior consent by the resident to any lawsuit initiated by the owner in connection with the lease and to a judgment in favor of the landlord.
- Distraint for rent or other charges: An agreement by the resident that the owner is authorized to take property of the resident and hold it until the resident performs an obligation the owner has determined the resident has failed to perform.
- Exculpatory clauses: An agreement by the resident not to hold the owner or its agents liable for any acts or omissions, intentional or negligent, on the part of the owner or the owner's agents.

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- Waiver of legal notice by resident before actions for eviction or money judgment: An agreement by the tenant that the landlord may institute suit without notifying the resident that the suit has been filed.
- Waiver of legal proceedings: Authorization for the owner to evict the resident or hold/sell the resident's possessions whenever the owner determines a breach or default has occurred, without notice to the resident or determination by a court of the rights and liabilities of the parties.
- Waiver of jury trial: Authorization for the owner's attorney to appear in court on behalf of the resident and waive the right to a jury trial.
- Waiver of right to appeal judicial proceeding: Authorization for the owner's attorney to waive the resident's rights to appeal for judicial error in any suit brought against the resident by the owner or its agent or to file suit to prevent the execution of a judgment.
- Resident chargeable with cost of legal actions regardless of outcome: A provision that the resident agrees to pay all attorney and other legal costs if the owner brings legal action against the resident, even if the resident prevails. Prohibition of the provision does not mean the resident, as a party to the lawsuit, may not be obligated to pay attorney's fees or other costs if the resident loses the suit.

The Section 202/8, Section 202 PACs, Section 202 PRACs, and Section 811 PRAC programs have even more restrictive requirements about modifications to the lease. In these programs, the only lease modification the owner may make is one that permits the owner to enter the leased premises at any time without advance notice to the resident when there is reasonable cause to believe an emergency exists or that the health or safety of a family member is endangered. This modification must be in the form of a lease addendum.

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Section 4 House Rules

HUD Handbook 4350.3, Section 6-9

While owners are not required to develop house rules, it is good practice for owners to develop them for each property since they are beneficial to both owners and residents. If an owner chooses to develop house rules, there are a few things to keep in mind when doing so:

- House rules are not approved by HUD or the Contract Administrator (CA) but may be reviewed during an MOR. If house rules conflict with HUD requirements, owners must revise them.
- House rules are an attachment to the lease but do not replace the lease in any way.
- New house rules or a change to the current house rules cannot be implemented unless the owner has given all residents a written 30-day notice of the change.
- House rules may not be so restrictive that they limit resident freedom, must not infringe on any residents' civil rights, must be reasonable, and must not create an unfavorable impact on residents who are part of a protected class.
- House rules must be related to the safety, care, and cleanliness of the building or the safety and comfort of the residents.
- All house rules must be consistent and within HUD requirements that govern the operation of HUD subsidized programs.
- House rules must comply with state and local requirements.

When developing house rules and determining whether they are reasonable, the owner should consider rules that are within the bounds of common sense and are reasonable. House rules should not be extreme or so limited that the residents are uncomfortable or cannot enjoy their homes and common areas of the property.

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*HUD HANDBOOK 4350.3, FIGURE 6-6**

Reasonable House Rules	Unreasonable House Rules
Requesting that all visitors sign in when entering the building.	Not allowing a visitor in a tenant's apartment during nighttime.
Not allowing smoking in the common areas of the building.	
Asking tenants to turn sound equipment low after a certain time at night.	Asking tenants to turn the lights off after a certain time at night.
Asking all children under the age of 12 to be accompanied by an adult resident when using building facilities.	Asking all children under the age of 12 to be accompanied by an adult resident at all times in the building.

**There are no statutory or regulatory provisions governing smoking in multifamily assisted housing. Owners are free to develop their own policies as long as state and local law are followed.*

Other common topics often included in house rules include: littering, guest rules, noise levels, security, lobby rules, and trash removal. HUD does not have a prescribed list or prescribed requirements for any common house rules except for extended absence/abandonment of the unit and residents conducting incidental business in their units.

ABSENCE/ABANDONMENT

As part of the house rules owners may include information concerning when a resident gives up their right to the unit due to a prolonged absence.

Abandonment is the resident's failure to pay rent and failure to acknowledge or respond to notices from the owner regarding overdue rent. Rules regarding abandonment must be consistent with state and local law. For example, state law may specifically define abandonment and situations under which the owner may take possession of the unit or secure the unit. If there are no state or local laws, the policies developed by the owner must be consistent with state and local law regarding nonpayment of rent, state the actions the owner will take to contact the resident, and describe how the disposition and any resident possessions will be handled.

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Absence should not be considered abandonment unless the household has not paid rent and does not acknowledge or respond to notices. Owners may establish rules defining extended absence as the tenant being absent from the unit for longer than 60 continuous days, or for 180 continuous days for medical reasons.

Conducting Incidental Business from the Unit

House rules concerning incidental business in the unit, such as limited babysitting or computer work, should address issues such as traffic, noise, signs in windows, use of parking spaces, hours of operation, and other reasonable rules that affect the property and the rights and comfort of other residents.

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Section 5 Violence against Women Act Lease Addendum

HUD Handbook 4350.3, Section 6-5

In Section 8 projects, form HUD-91067, Violence against Women Act (VAWA) Lease Addendum, must be attached to each existing and new lease and must be signed by every household member who is required to sign the lease. Except under limited circumstances, owners may not evict victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking based on criminal activity directly related to the activities covered under VAWA when protections have been requested.

- Although the VAWA 2022 statute does not specifically do so, HUD has recently begun 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, we have opted to include human trafficking in this text in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

Incidents of actual or threatened domestic violence, dating violence, sexual assault, stalking, or human trafficking are not considered as serious or repeated lease violations by the victim or "other good cause" for termination of assistance or tenancy of the victim. Criminal activity that is directly related to domestic violence, dating violence, sexual assault, stalking, or human trafficking engaged in by a member of a resident's household or any guest or other person under the resident's control may not be a cause for termination of assistance, tenancy or occupancy rights if the resident or affiliated individual is the victim.

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Owners may evict or terminate assistance of victims in two instances if:

- The lease violation is unrelated to the acts of domestic violence, dating violence, sexual assault, stalking, or human trafficking.
  - The owner may not subject victims to more demanding standards than other residents.
- Continued occupancy by the victim would pose an actual and imminent threat to other tenants or the property's employees.
  - This is defined as a threat of physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. See 24 CFR 5.2005(d) for a full discussion.

Assistance may be terminated or the lease may be bifurcated in order to remove the perpetrator from the household, regardless of whether the individual is a lawful tenant. If the member has engaged in a criminal activity directly related to domestic violence, dating violence, sexual assault, stalking, or human trafficking, the member may be evicted, removed, or have their occupancy rights terminated. The eviction or termination action must be in accordance with federal, state, and local law, and in accordance with program requirements.

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Notices and Emergency Transfers

VAWA policies must be included in the TSP and should be included in house rules. The Notice of Occupancy Rights Under the Violence Against Women Act and the new VAWA certification form HUD-5382 must be given to all existing residents at annual recertification, and with any notice of termination of assistance or eviction, at the time of admission, or at the time assistance is denied to an applicant. The Emergency Transfer Plan for VAWA must have been in place by June 14, 2017. Now available at hud.gov:

- The Notice of Occupancy Rights Under the Violence Against Women Act (Form HUD-5830)
- Model Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking (Form HUD-5381)
- Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking (Form HUD-5382)
- Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking (Form HUD-5383)

These are model forms, and may be customized for each property, as long as they contain the same information and language.

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Section 6 Lead-Based Paint Disclosure Requirements

HUD Handbook 4350.3, Section 6-8

In March 1996, Requirements for Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards in Housing was published at both 40 and 24 CFR. The requirements apply to all properties built prior to January 1, 1976, including cooperatives. There are a few specific exemptions:

- Residential structures built after January 1, 1978
- Rental property found to be lead-based paint free by a lead-based paint inspector certified under the federal certification program or under a federally accredited state or tribal certification program
- Zero-room dwelling units
  - Including single room occupancy (SRO) units
- Housing specifically designated for the elderly or persons with disabilities
  - Unless a child under age six resides or is expected to reside in the unit
- Short-term leases of 100 days or fewer when no lease renewal or extension can occur

For properties that do not meet one of the exemptions, all residents must be given basic information on lead-based paint hazards. Owners must retain a record of this communication to ensure compliance with the requirements. An accurate record will reduce liability, help avoid lawsuits, potentially reduce insurance premiums, and help the owner avoid penalties for failing to meet requirements.

The requirements for properties that are not exempt are outlined in HUD Handbook 4350.1 Multifamily Asset Management and Project Servicing, and include:

- Visual assessments to identify deteriorated paint or (for assistance over $5,000 per unit annually) risk assessments to identify lead-based paint hazards
- Paint stabilization or (for assistance over $5,000 per unit annually) interim controls with clearance testing, when appropriate
- Ongoing paint maintenance and (for assistance over $5,000 per unit annually) reevaluation every two years to identify hazards
- Notification of tenants about the actions above
- Special actions when a child under six years old is reported to have high blood lead levels

Owners may not refuse to rent to households with children in order to avoid lead-based paint requirements. This would be considered familial status discrimination under the Fair Housing Act. Owners may affirmatively market units that were built after January 1, 1978, and units that were built before January 1, 1978, that have been found to be lead-free to families with children under the age of six.

Before a vacant unit is leased to a new resident, the owner is required to provide the applicant with the Protect Your Family from Lead in Your Home pamphlet published by EPA/HUD/Consumer Product Safety Commission (CPSC) and the lead-based paint disclosure form. It is recommended that these documents be given to the applicant at the time of the briefing and leasing appointment.

The disclosure form must be signed by the applicant and the owner before the lease is signed. The form must disclose the known presence of lead-based paint/hazards and provide the applicant with any available records pertaining to such issues, or instruct applicants on how to obtain such records, if applicable. The disclosure form also serves as a receipt and acknowledgment that the applicant has received a copy of the lead hazard information pamphlet. Exhibit 6-4 of HUD Handbook 4350.3 contains a copy of the disclosure form.

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HUD also requires that owners disclose known lead-based paint and lead-based paint hazards in the property and provide Protect Your Family from Lead in Your Home to residents when leases are renewed, modified, or renegotiated. If no new information on those subjects has come into the owner's possession, and the owner has already provided the tenants with the disclosure information, owners are not required to give the information again.

Owners must keep the signed disclosure form for each resident for three years after the start of the initial lease. Owners are required to keep a record of communication regarding the disclosure of lead-based paint information to residents.

HUD released a new Lead-Based Paint (LBP) Final Rule, effective February 13, 2017, in Notice H 2016-10, Reminder of Requirements. It states if an owner is subject to the Lead Safe Housing Rule, REAC inspections will now include a verification of:

- An LBP inspection report or lead risk inspection, stating whether the property was found to be lead-free;
- If not found to be lead-free, the owner must provide the REAC inspector with a Lead Hazard Control Plan or a Lead-Based Paint Management Plan;
- All two-year (biennial) lead reevaluations since the original risk assessment was conducted;
- Copies of all LBP inspections, assessments, reevaluations, hazard control, and signed LBP disclosure forms, and notification to residents about the above actions.

If these documents are not made available to the REAC inspector, the owner will be required to submit them directly to their HUD AE.

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Section 7 Pet Rules in Elderly/Disabled Developments

Owners must allow common household pets in housing for the elderly and persons with disabilities. These requirements do not apply to family housing, which must only follow any applicable state or local requirements. Owners may adopt a no pets policy in family housing. This requirement applies to properties, not individuals. For example, an elderly person living in family housing would be prohibited from owning a pet if the owner had established a no pets policy for the property.

RAD PBRA: Pets

Existing pets must be grandfathered into the property at RAD conversion. Owners must develop Pet Rules using the requirements found in HUD Handbook 4350.3 REV-1, Chapter 6.

Owners can restrict pets to households that are not part of the RAD conversion. When a property permits pets, the Pet Rules must be provided to each household regardless of whether the household has a pet.

Pet rule requirements for tenant admissions after conversion are covered by state and local requirements.

Lease provisions for pets are found only in the Model Leases for Section 202/8, Section 202 PACs, Section 202 PRACs, and Section 811 PRACs. However, certain properties (e.g., Section 8 New Construction, Section 8 State Agency) may be available for occupancy only to elderly and/or disabled tenants. As a result, the language addressing pets that is found in the Model Lease for Section 202/8 and Section 202 PACs must be added to the Model Lease for Subsidized Programs for use in these properties. Instead of modifying the Model Lease for Subsidized Programs to include the pet provisions from the Model Lease for Section 202/8 and Section 202 PACs, owners may attach a HUD-approved lease addendum.

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PETS IN ELDERLY/DISABLED HOUSING

HUD Handbook 4350.3, Section 6-10

The goal of establishing pet rules is to ensure the property is maintained in a decent, safe, and sanitary condition and to maintain units in good physical condition. Pet rules also ensure that current and prospective pet owners are aware of their responsibilities to their pets, neighbors, and the property as a whole. Common rules concerning pets include: pet registration, inoculation, disposal of pet waste, and restraint of pets in common areas.

Remember, the requirements in paragraph 6-10 of the HUD Handbook 4350.3 only apply to properties developed for the elderly or persons with disabilities. In these properties, a common household pet is defined as domesticated animal, such as a dog, cat, bird, rodent (including a rabbit), fish, or turtle that is traditionally kept in the home for pleasure rather than for commercial purposes. Common household pets do not include reptiles (except turtles). If this definition conflicts with any applicable sate or local law or regulation defining the pets that may be owned or kept in dwelling accommodations, the state or local law or regulations apply. This definition does not include animals that are used to assist persons with disabilities. In elderly and disabled housing, owners may not treat applicants who keep a pet differently. An applicant may also decline a unit offer because the unit is too close to another unit with a pet. The rejection must not impact the applicant's position on the waiting list.

When owners develop pet rules, there are several HUD-mandated topics that must be part of the pet rules. There are also several HUD-suggested topics that owners should take into consideration.

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HUD HANDBOOK 4350.3 EXHIBIT 6-4

Mandatory Rules *[24 CFR 5.350]*	**Examples of Discretionary Rules** *[24 CFR 5.318]*
Inoculation – Pets need to be inoculated in accordance with state and local law.	**Pet size and type –** Property owners may place reasonable limitations on the size, weight, and type of common household pets.
Property owners must prescribe sanitary standards to govern the disposal of pet waste. These rules may: a) Require pet owners to exercise and allow pets to deposit waste only in designated areas; b) Forbid pet owners from walking pets or allowing them to deposit waste in areas outside designated exercise and waste deposit areas; c) Require pet owners to remove and properly dispose of all removable pet waste; d) Require pet owners to take pets elsewhere to exercise or deposit waste if there are no areas on the premises designated for such purposes; e) Require owners of pets using litter boxes to remove pet waste from litter boxes and prescribe methods for disposal of pet waste, but not more frequently than once each day; and f) Require owners of pets using litter boxes to change the litter and prescribe methods for disposal of pet waste and used litter, but not more frequently than twice each week.	**Density of tenants and pets –** Property owners may place reasonable limitations on the number of pets that are allowed in each unit. Owners may limit the number of 4-legged, warm-blooded pets to one per unit or group home. **Pet care standards –** Property owners may prescribe standards of pet care and handling to protect the property premises and health, safety, and welfare of tenants, employees, and the public. Standards may: a) Require dogs and cats to be spayed or neutered; b) Bar pets from certain areas, except those that would deny access to the building; c) Require pet owners to control noise and odor; d) Require pet owners to comply with state/local licensing requirements; and e) Exclude from the property any pets not owned by a tenant that are being kept temporarily (less than 14 days).
Pet restraint – All household pets must be under the control of a responsible individual while on the common areas of the property. All pets must be effectively and appropriately restrained and under the control of a responsible individual while on the common areas of the property.	**Potential financial obligations of tenants –** a) **Refundable deposit.** Property owners may ask tenants who own or keep cats or dogs in their units for a refundable pet deposit. If the owner chooses to collect a deposit, the deposit must: • Be reasonable; • Not exceed the amount periodically fixed by HUD through notice (current limitation is $300); and • Provide for gradual accumulation of the deposit not to exceed an initial $50 when the pet is brought into unit and subsequent monthly payments of $10 per month. For allowable uses of the pet deposit, see paragraph 6.24 D. The unused portion of the pet deposit must be returned 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. b) **Waste removal charge.** Owners may impose a separate waste removal penalty of up to $5 per occurrence for failure to comply with pet rule on waste removal.
Registration – Pet owners must register their pets with the project owner/manager before the pet is brought on premises and must update the registration annually. Registration must include the following: a) Certification of inoculation; b) Information sufficient to identify the pet and to demonstrate that it is a common household pet; and c) Name, address, and phone number of at least one responsible party who will care for pet if owner dies or is unable to provide care.	

Owners may refuse to register a resident's pet if:

- The pet is not a common household pet
- Keeping the pet would violate any applicable house rule
- The pet owner fails to provide complete pet registration

PET RULES AND THE LEASE

The owner's pet must include language identified in Exhibit 6-4 of the HUD Handbook 4350.3. These include mandatory rules about:

- Inoculations
- Sanitary standards
- Pet restraints
- Registration
- Written notification to a pet owner who refuses to register a pet

The owners pet rules may include other discretionary provisions, including:

- Pet size and type
- Density of tenants and pets
- Pet care and standards
- Refundable pet deposits and/or waste removal charges

If the owner determines that a pet owner has violated the pet rules, the owner may serve the resident a 10-day notice to comply or vacate lease violation. The owner must have sufficient evidence that the pet owner has violated the pet rules, such as written statements from other residents. If state or local law conflicts with the 10-day timeframe for correction of violations, the owner must use whichever timeframe is most beneficial to the resident. The violation notice must:

- Identify the pet rule that was violated
- Contain a brief statement of how the violation was determined
- State that the pet owner has 10 days from the date of service of the notice to correct the violation or make a written request for a meeting with the owner to discuss it

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- State that the pet owner is entitled to be accompanied by another person of their choice at the meeting
- State that the pet owner's failure to correct the violation, request a meeting, or appear at a requested meeting may result in termination of the pet owner's tenancy

If the pet owner requests a meeting with the owner before the 10-day time frame has passed, the owner must meet with the resident at a mutually agreed time and place no later than 15 days from the date of the violation notice. If the resident and the owner are unable to resolve the violation at the meeting or if the resident has failed to correct the violation, the owner may issue a notice of pet removal to the resident. The owner must not terminate a pet owner's tenancy based on a pet rule violation unless the resident has failed to remove the pet or correct the violation within the specified timeframe and the violation is sufficient to begin procedures to terminate tenancy under the terms of the lease and applicable regulations. Owners should also check state and local law to ensure that the most beneficial laws or regulations for the resident are followed.

CHANGES TO PET RULES

When the owner develops new pet rules, residents must be given written notice and 30 days to make any comment on the proposed rules. Owners may also hold a community meeting where residents may openly discuss the proposed rules. A notice containing date, time, and location of the meeting must be distributed to each resident. If the new pet rules are to be included as part of the lease, the current lease must be amended at the time of renewal or at the time a resident registers a new pet. Owners may change or modify the pet rules at any time and are required to follow the same notice and comment requirements as when pet rules are first developed. When developing pet rules, owners must ensure that rules are compliant with state and local law. If state or local law conflicts with HUD regulations, then state or local law must be followed.

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ASSISTANCE ANIMALS

Pet rules may never be applied to assistance animals, including service animals and other support animals, since assistance animals are not pets. Pet policies such as security deposits do not apply to them. State and local health and safety laws, however, may be enforced as well as a requirement that a resident with a disability who uses a service or assistance animal be responsible for the care and maintenance of the animal. Further, all lease provisions apply, including maintaining a clean, sanitary unit and ensuring neighbors enjoy the premises in a peaceful, quiet, nonthreatening environment. Under the ADA, a service animal is a trained dog, making a limited exception for miniature horses.

Notices FHEO 2013-01 and 2020-01, which contained guidance for assessing a request to have a service or assistance animal as a reasonable accommodation under the Fair Housing Act for residents in HUD-funded housing programs, have been withdrawn. Even though these guidance documents have been withdrawn, the federal regulations under the Americans with Disabilities Act (ADA) itself have not changed.

However, under a recent policy shift, FHEO issued an enforcement memorandum rescinding previous guidance on emotional support, comfort, or companionship animals with no specific task training. They are no longer prioritized or protected under FHEO enforcement standards.

FHEO now limits reasonable cause findings and enforcement actions under the FHA for complaints strictly to animals individually trained to perform specific disability-related tasks.

State and local fair housing laws still apply and remain completely unaffected by this federal enforcement change. O/As should check their state and local laws because some states and municipalities have legal protections for emotional support animals (ESAs) that are broader than the updated federal baseline. O/A policies may also extend protections to specific support or assistance animals.

FHEO no longer expects PHAs and O/As to extend reasonable accommodations to untrained ESAs.

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If an individual requests a reasonable accommodation to keep an animal in connection with his or her disability, the owner must ensure:

- The request was made by or on behalf of a person with a disability
- There is a disability-related need for the assistance animal (nexus)
- The animal must be trained to perform a certain disability-related task
- The request is reasonable

Some websites sell certificates, registrations, and licensing documents for assistance animals to anyone who answers certain questions or participates in a short interview and pays a fee.

- HUD has stated that such documentation from the internet is not, by itself, sufficient to reliably establish that an individual has a non-observable disability or disability-related need for an assistance animal or to establish that an animal is trained

However, HUD also states that many legitimate, licensed health care professionals deliver services remotely, including over the internet. One reliable form of documentation is a note from a person's health care professional that confirms a person's disability and/or need for an animal when the provider has personal knowledge of the individual.

If there is reliable, objective evidence that the animal poses a direct threat to the health or safety of others or that the animal would cause substantial physical damage to the property, the owner may refuse to permit the animal if the threat cannot be eliminated or reduced to an acceptable level through actions the individual takes to maintain or control the animal.

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Section 8 Security Deposits

HUD Handbook 4350.3, Chapter 6, Section 2

It is recommended that the owner collect a security deposit when the resident initially executes the lease since residents may move out of the property owing rent or damage charges. The security deposit gives owners some financial protection when a resident moves out of a unit and has failed to fulfill their responsibilities under the lease.

The amount of the security deposit differs depending on the program type. The security deposit will generally be a different amount for each resident since they are generally income-based. The amount of the security deposit does not change if the resident later experiences an increase in income. For example, a household that moves in April and has an interim recertification in October that increases the household's TTP would not pay a higher security deposit.

HUD HANDBOOK 4350.3 CHAPTER 6, FIGURE 6-7

Program	Amount to Collect
Section 8 New Construction with AHAP executed before November 5, 1979	One month's total tenant payment
Section 8 Substantial Rehabilitation with AHAP executed before February 20, 1980	One month's total tenant payment
Section 8 State Agency with AHAP executed before February 29, 1980	One month's total tenant payment
Section 8 New Construction with AHAP executed on or after November 5, 1979 *[24 CFR 880.608]*	The greater of: 1) One month's total tenant payment, or 2) $50
Section 8 Substantial Rehabilitation with AHAP executed on or after February 20, 1980 *[24 CFR 881.601]*	The greater of: 1) One month's total tenant payment, or 2) $50
Section 8 State Agency with AHAP executed on or after February 29, 1980 *[24 CFR 883.701]*	The greater of: 1) One month's total tenant payment, or 2) $50
RHS 515 with Section 8 *[24 CFR 884.115]*	Equal to one month's total tenant payment
Section 8 LMSA with HUD-insured or HUD-held mortgages *[24 CFR 886.116]*	An amount up to, but no greater than, one month's total tenant payment
Section 8 provided with the sale of a HUD-owned property (Property Disposition) *[24 CFR 886.315]*	The greater of: 1) One month's total tenant payment, or 2) $50
Section 202/8 or Section 202 PAC *[24 CFR 891.435]*	The greater of: 1) One month's total tenant payment, or 2) $50
Section 202 PRAC *[24 CFR 891.435]*	The greater of: 1) One month's total tenant payment, or 2) $50
Section 811 PRAC *[24 CFR 891.435]*	The greater of: 1) One month's total tenant payment, or 2) $50
Section 236	One month's tenant rent
Section 236 with RAP	The greater of: 1) One month's total tenant payment, or 2) $50
Section 221(d)(3) BMIR	One month's tenant rent
Rent Supplement	The greater of: 1) One month's total tenant payment, or 2) $50

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Residents are expected to pay the security deposit from their own resources or from other private/public sources and may be rejected if they do not have sufficient funds to pay the security deposit. However, owners may collect the security deposit in installments. Owners may require any resident to pay the security deposit in a guaranteed form such as money order, bank check, or cashier's check. For all other monies due, owners must accept a resident's personal check.

RAD PBRA: Security Deposits

Owners may continue to recognize security deposit amounts that have been previously provided by tenants who are in-place at the time of conversion. If in-place tenants have not previously been required to provide a security deposit, the owner cannot require a security deposit be collected.

For new tenants after conversion, owners must collect a security deposit at the time of initial lease execution equal to the greater of the household's one month total TTP at move-in or $50.

INTEREST

Section 8 New Construction, Substantial Rehab, and State Agency properties are subject to two sets of rules regarding interest on security deposits, depending on when their AHAP was signed. If state and local laws are silent on the issue of interest, the actual accrued interest must be credited to each account. The owner must place security deposits into a segregated, interest-bearing account.

Depending on the program type and location of the property, local law governing interest earned on security deposits may differ. If local laws are more stringent or conflict with HUD requirements, the owner should follow the requirements that provide the greatest benefit to the resident.

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REFUNDS

State and local laws may be more stringent than HUD requirements regarding refunding and use of security deposits. Owners should be diligent in ensuring that all state and local laws and HUD regulations are met.

Under HUD regulations, residents must provide owners with a forwarding address or arrange to pick up any refunds (with the exception of RHS 515 properties with Section 8 and properties with Section 8 LMSA and Section 8 PDSA). The owner must refund the full security deposit plus accrued interest or provide the resident with an itemized disposition of any unpaid rent, damages, and an estimated cost for repair no later than 30 days after the move-out date. If the owner fails to provide a deposit disposition to the resident in a timely manner, the resident is entitled to a full refund of the security deposit plus accrued interest, if applicable. The disposition must also include the resident's rights under state and local laws. Any unused balance of the security deposit must be refunded to the resident.

If the resident objects to any part of the deposit disposition the residents has the right to present objections to the owner in an informal meeting. Owners must keep a record of any disagreement and the outcome of the meeting in the resident file for three years after the move out date.

TRANSFERS

When a resident household transfers, the security deposit must either be transferred to the new unit or refunded, in which case the resident is required to pay a security deposit for the new unit. If the deposit for the old unit is refunded, the owner must follow HUD's guidelines to determine the resident's security deposit for the new unit as outlined in Chapter 6 of HUD Handbook 4350.3.

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Section 9 Other Charges

HUD Handbook 4350.3, Chapter 6, Section 3

At the time of move-in, the only monies that may be collected are the maximum security deposit, pet deposit (if applicable), and rent. The owner must obtain HUD approval for any other fees or charges.

APPLICATION FEES

The owner may not charge costs associated with accepting and processing applications, screening, or verification to applicants. These costs are considered property expenses. Note, the only exception is cooperatives in which reasonable application and credit check fees may be charged.

MEAL PROGRAMS

Properties for the elderly or persons with disabilities where HUD has approved a mandatory meal program may charge a HUD-approved fee that is not considered part of the rent. Owners are required to execute a separate meal contract that is incorporated as part of the lease and states the program requirements. The contract must grant exceptions to participation in the program to those residents with medical or dietary restrictions or in the case where a resident is employed. All income collected from meal fees must be used to offset costs associated with purchasing, preparing, and serving meals.

LATE FEES

Owners may not charge late fees for rent to residents who live in Section 202/8, Section 202 PAC, Section 202 PRAC, and Section 811 PRAC properties.

For all other properties, owners may charge a $5.00 late fee on the sixth day of the month and $1 per day for the remainder of the month until that month’s rent has been paid.

Cooperatives may collect a late fee that has been approved by their board and that is consistent with the cooperative's organizational documents and state and local laws.

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Higher late fees may be approved by HUD or the CA as long as the fee does not exceed $30 per month, the fee is permitted under state and local laws, and is consistent with local management practices.

Owners may not evict residents for nonpayment of late fees, but owners may deduct unpaid late fees from the resident's security deposit at the time of move-out.

PET DEPOSIT

Owners may impose a refundable pet deposit on residents who own or keep cats or dogs in their unit in compliance with the owner's pet policies. For most Multifamily programs, the current maximum pet deposit amount is $300, as set by HUD and published in the Federal Register. The property's pet deposit information must be written into the property's pet policy or pet rules. Pet deposits may be used by the owner to pay for reasonable expenses that are directly related to the pet being in the unit. They cannot be used for such things as a clogged sink or broken ceiling fan if the damages do not relate to the pet being in the unit. Owners must return any unused portion of the pet deposit to the resident within a reasonable time after the resident has moved out of the property or no longer owns the animal. Service or assistance animals are exempt from the pet policy, and the owner may not charge a pet deposit for service or assistance animals.

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HUD HANDBOOK 4350.3 FIGURE 6-8

Program	Maximum Amount to Collect
Tenants whose rents are subsidized under the following programs: Section 8 New Construction Section 8 Substantial Rehabilitation Section 8 State Agency RHS 515 with Section 8 Section 202 with PRAC Section 811 with PRAC Rent Supplement Rental Assistance Payment	The pet deposit must not exceed $300. The initial deposit cannot exceed $50 at the time the pet is brought onto the premises. The pet rules must provide for gradual accumulation of the remaining required deposit, not to exceed $10 per month until the deposit is reached. **NOTE:** A tenant must be allowed to pay the entire amount or increments that are greater than $10 if he or she chooses to do so.
Tenants whose rents are not subsidized under one of the programs listed in 1 above, but who live in a property assisted under the following programs: Section 236 Interest Reduction Section 202 with Section 8 Section 202 with PAC Section 221(d)(3) BMIR	The pet deposit must not exceed $300. The pet rules may provide for a gradual accumulation of the required deposit.

OTHER CHARGES

There are four other permissible charges under the lease:

- Returned check for insufficient funds: In family housing, owners may bill a resident for the actual amount the bank charges the owner for processing a returned check. This fee may not be imposed the first time a check is returned. At the second and each additional time this situation occurs, the owner may charge a fee. HUD or the CA may approve additional charges if the charges are consistent with local management practices and are permitted by state and local laws.

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- Damages: Owners are permitted to bill residents for damages caused due to carelessness, misuse, or neglect by the resident, members of the household or guests during tenancy. Residents are required to pay within 30 days after they are billed. Billing for damages is limited to actual and reasonable costs as accrued by the owner for repairing damages. Owners may also deduct any accrued or unpaid damage charges from the resident's security deposit at the time of move out. Owners may evict a tenant for failure to pay damage charges.
- Special Management Services Fees: Owners may charge a reasonable fee for special services such as lock outs, providing extra keys, and for keys not returned at the time of move out.
- Court, Attorney, and Sheriff Fees: These fees may be passed onto residents wishing to avoid or settle an eviction suit as long as they are permitted under state and local laws and the fees are reasonable. Charges must not exceed the actual costs incurred by the owner.

Any other charges must be approved by HUD or the CA, listed in the lease, and distributed to all residents in accordance with lease modification requirements.

Since damage charges are limited to actual and reasonable costs accrued for labor and materials for repairing damages, the best practice to calculate a reasonable hourly rate for labor is to add up all costs for maintenance employees, including salaries, hourly wages, benefits, sick time, and personal time. Take that combined number and divide it by the number of employees included, and divide that by 52 weeks a year, at 40 hours a week. This breakdown will provide documentation for HUD of a real estimate of average hourly labor costs.

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Section 10 Chapter 5 Post Test

1. House rules may replace certain clauses in the lease.
   a. True
   b. False

2. When a resident transfers to a new unit, the rent and HAP are effective on the same day.
   a. True
   b. False

3. After the move-in inspection, the resident may report new issues within 30 days.
   a. True
   b. False

4. All modifications to the lease must be approved by HUD.
   a. True
   b. False

5. Owners may bill a resident for the actual amount the bank charges the owner for processing a returned check due to insufficient funds. This fee may be imposed the first time a check is returned.
   a. True
   b. False

6. In properties where the owner may charge late fees for nonpayment of rent, owners may charge a $5.00 late fee on the sixth day of the month and $1 per day for the remainder of the month, not to exceed $30.
   a. True
   b. False

7. Owners must allow common household pets:
   a. In all developments
   b. In family developments only
   c. In elderly/disabled developments only
   d. None of the above

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8. Owners may not charge application fees under any circumstances.
   a. True
   b. False

9. Pet rules do not apply to service animals, however, the owner may establish a service animal policy to deny any service animal that is considered a “vicious breed”.
   a. True
   b. False

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CHAPTER 6 Annual and Interim Recertifications

Section 1 Learning Outcomes and Overview

LEARNING OUTCOMES

Upon completion of this chapter, you should be able to:

- Identify programs in which annual recertifications are required
- List the notification requirements for annual recertifications
- Recall the procedures for conducting an annual recertification
- Apply the correct effective date for annual recertifications in various situations
- List the requirements for then the O/A conducts an interim recertification
- Understand when to conduct non-interim transactions
- Review the requirements for gross rent changes

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Section 2 Overview

HUD Handbook 4350.3, Section 7-5

Annual recertifications are required for all residents who receive assistance in a Section 8 project-based program, Section 202 programs, and Section 811 with Project Rental Assistance Contracts (PRACs). The annual recertification requirements also apply to any resident in a Section 236 property paying less than the Section 236 market rent or any resident of a Section 221(d)(3) property paying the BMIR rent. Annual recertifications are also required for both current and new members of Section 236 or Section 221(d)(3) BMIR cooperatives.

Owners must perform a recertification for each resident household at least annually by re-verifying all income and family composition based on program requirements and procedures as outlined in Chapter 5 of HUD Handbook 4350.3.

CFR 5.609(c)(1)

- For all annual recertifications, owners must determine the family income for the previous 12 months and use that amount as the family income, unless using a streamlined income determination.
- In determining the income for the previous 12-month period, the owner must:
  - Take into account any recertification from an interim reexamination during that period; and
  - Make any adjustments to reflect current income if there were any changes during that period.

RECERTIFICATION ANNIVERSARY DATES

All annual recertifications must be completed on or by the resident's anniversary date, which is the first day of the month the resident initially moved into the unit. For example, if a resident moved in on May 10th, in subsequent years the effective date of their annual recertification is May 1. If the resident was not receiving assistance at the time of move-in but begins receiving assistance later in their tenancy, the anniversary and recertification date is the first day of the month that the resident began receiving assistance from HUD.

> ***Example****: The Pattersons and the Lloyds both moved into Happy Valley Apartments on April 10, 2020. The Pattersons received HUD rental assistance upon move-in, but the Lloyds did not begin receiving rental assistance until July 2020. The Pattersons' next recertification date is April 1, 2021, which is based on their move-in date. However, the Lloyds' next recertification date is July 1, 2021, based on the date the household began receiving HUD rental assistance.*

The recertification date does not change if the resident transfers units at the same property.

Owners may request an alternative recertification date schedule from HUD/CA for acceptable reasons, such as basing recertification dates on the annual cost of living adjustment (COLA) to Social Security or other assistance programs in elderly and disabled properties, the anniversary date of the property's housing assistance payment (HAP) contract, or basing recertification dates by building or unit number to better coordinate recertification and inspection activities.

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RAD PBRA: Recertification Anniversary Dates

In place residents do not need to be recertified at conversion. All residents maintain the same annual recertification date they would have had as public housing residents. The owner should complete the initial 50059 certification for each household using the same information previously found on the 50058.

If the household is going to be relocated off site, the following steps must be taken:

- Conduct an IC using the effective date of the HAP, using all the households' PH data (security deposit, TTP, and next AR date)
- Create a manual adjustment to offset the voucher request and bring the amount to $0 (this will be a negative adjustment)
- Transmit on the HAP voucher to TRACS
- Create a TM effective the HAP effective date, using the NS code
- Create a manual adjustment to offset the voucher request and bring the amount to $0 (this time it will be a positive adjustment)

This will establish residents as RAD PBRA households at the time of conversion.

When the residents return, the effective the date the resident returns:

- If it has been less than 12 months since conversion:
  - Confirm there have been no changes that would prompt an IR. If not, conduct an IC to bring them back into the property using the 50058 TTP.

    If there have been changes:
    - Verify what has changed.
    - Conduct an IC using the updated income/household information.
- If it has been more than 12 months since conversion:
  - Obtain full third-party verification of all income/asset/expense information.
  - Conduct an IC using the updated information

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Section 3 Annual Recertification Notification

HUD Handbook 4350.3, Section 7-7

All residents must be notified in writing of their upcoming recertifications. Owners must provide residents with an initial notice and several reminder notices to ensure residents are aware of their responsibilities.

INITIAL NOTICE

The initial notice must be provided to each resident when they sign the initial lease and at the completion of each annual recertification in order to ensure that residents understand they are required to complete an annual recertification by a specified date the following year.

The initial notice must refer to the section of the HUD model lease regarding resident recertification responsibilities and must specify the cutoff date by which the resident must contact the owner and provide all necessary documents and signatures. All residents must contact the owner by the 10th day of the 11th month from the last recertification. For example, if the recertification effective date is April 1, the resident must respond no later than February 10th.

The resident must sign and date the initial notice. The owner must maintain the original in the resident file and provide a copy to the resident.

FIRST REMINDER NOTICE

The first reminder notice must be provided to the resident at least 120 days prior to the recertification anniversary date, and a copy must be maintained in the resident file. The notice must:

- Refer to the section of the HUD model lease regarding resident recertification responsibilities
- State who the resident should contact to schedule a recertification interview and how contact should be made (i.e., by phone or in writing)
    - Owners may propose an interview time and date as long as the resident has the option to reschedule the interview

- Provide the location, days, and times that property staff are available for recertification interviews
- List the information the resident should bring to the interview
- State the cutoff date by which the resident must contact the owner and provide all necessary information and signatures
- State that if the resident responds after the cutoff date, the owner will process the recertification, but the resident will not receive a 30-day notice of any resulting rent increase
- State that if the resident fails to respond before the recertification anniversary date, the resident will lose rental assistance and will be responsible for the full market or contract rent
    - In Section 202 PRAC or Section 811 PRAC projects, the resident may be evicted for noncompliance with lease terms
        - In most programs, failure to comply with annual recertification requirements leads to termination of assistance followed by eviction (subject to the terms of the lease). However, in 202 PRACs and 811 PRAC projects, the owner may move straight to eviction without first terminating assistance.

SECOND REMINDER NOTICE

The second reminder notice must be sent to the resident no later than 90 days prior to the recertification anniversary date. The notice only needs to be sent if the resident did not respond within 30 days of the first reminder notice. In other words, if the resident responded to the first reminder notice, the owner is not required to send the second reminder.

If the owner sends a second reminder notice, it must contain all the same information as the first reminder notice. Owners must maintain a copy in the resident's file.

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THIRD REMINDER NOTICE

The third reminder notice must be sent to the resident no later than 60 days prior to the recertification anniversary date. Once again, the notice only needs to be sent if the resident did not respond to the first or second reminder notices within 60 days prior to the recertification anniversary date. A copy must be maintained in the resident's file.

If the owner sends a third reminder notice, it must contain the same information as the as the first reminder notice-including the rent amount the resident will pay if the resident fails to comply with recertification requirements-and must state that their rent amount will increase without any additional notice. In Section 202 PRAC or 811 PRAC projects, the notice must state that the resident may be evicted for noncompliance with the lease terms.

All notices must be in a form accessible to residents with disabilities (e.g., a notice in Braille or an audio format for a resident with a vision impairment).

HUD HANDBOOK 4350.3, FIGURE 7-4

Notice	Date the Notice Is Due to the Tenant	Sample Timeline Assumes a December 1 Recertification Anniversary Date
Initial Notice for Upcoming Recertification	At initial lease signing and at every annual recertification thereafter. (Obtain tenant signature acknowledging receipt.)	The initial notice should have been signed by the tenant at the previous year's certification/recertification date, *December 1*.
First Reminder Notice	120 days prior to the tenant's recertification anniversary date.	The first reminder notice should be sent out by *August 1.*
Second Reminder Notice (*If no response to First Notice.*)	At least 90 days prior to the tenant's recertification anniversary date.	The second reminder notice should be sent out by *September 1*.
Third Reminder Notice (*If no response to Second Notice.*)	At least 60 days prior to the tenant's recertification anniversary date.	The third reminder notice should be sent out no later than *October 1*.

Section 4 Annual Recertification Procedures and Processing

HUD Handbook 4350.3, Section 7-6

Each annual recertification must be completed and submitted to the Tenant Rental Assistance Certification System (TRACS), which is the online system through which HUD collects and monitors all owner-submitted certifications and through which owners submit monthly vouchers for all HAP billing.

The owner must process and complete all recertifications in a timely manner. If a current annual recertification has not been completed and submitted through TRACS within 15 months of the last recertification, the previous annual recertification for that family will be terminated in TRACS. If this occurs, HUD/CA will terminate assistance payments to the owner for the household. Additionally, the owner will be required to repay the HAP collected for the three-month period from the date the annual recertification should have been effective through the end of the 15th month. Owners must repay HUD by way of an adjustment on the next voucher.

Owners must maintain a tracking system to ensure timely completion of all recertifications and must have all recertifications completed in enough time to give the resident at least 30-day notice of any increase in the total tenant payment (TTP) or tenant rent.

Criminal Background Checks

Owners have the option of running a criminal background check at annual recertification, including a state lifetime sex offender registration check. If the owner chooses to do so, the owner must have a policy stating that criminal background checks will be run for all residents at the time of their annual recertification. HUD recommends that owners check sex offender status annually, regardless of whether a criminal background check is used. The Dru Sjodin National Sex Offender Public Website may be used (www.nsopw.gov). Provided they follow proper notification procedures, owners may take action to evict residents who are in violation of the lease based on the results of the criminal background check and the sex offender screening. Owners should be sure that the family has signed the appropriate consent forms in situations where they are required.

Section 5 Effective Dates of Annual Recertifications

TIMELY PROCESSING

HUD Handbook 4350.3, Section 7-8

Owners must give residents who have complied with all recertification requirements at least 30-days' notice of a rent increase. In order for the owner to do this, recertifications should be completed at least 35 days prior to the anniversary date.

A 30-day notice is not required if the resident's rent portion is decreasing.

***Example 1**:*

The Patterson's annual recertification is due on April 1st. The manager sends the Pattersons their first, second, and third recertification reminder notices. The Pattersons supply all necessary documents and signatures on February 7th. They report a new job at their appointment. The manager must complete the third-party verifications and process the recertification by March 1st in order to give 30-day notice and ensure the rent increase rent takes effect on the anniversary date.

LATE PROCESSING DUE TO OWNER ERROR

If the owner is unable to complete the verification process in time to give 30-day notice or if the owner failed to provide timely recertification reminders, the rent increase may not take effect until the 30-day notice period has expired. However, the change in HAP will take effect on the recertification date regardless of whether proper notice was given. In this situation, the owner would lose the difference between the old rent amount and the new rent amount.

Example 2:

The Parkers' recertification anniversary date is May 1st. They have just received their first recertification reminder notice. They immediately call the manager and make an appointment. They complete their recertification interview and provide all necessary documentation and signatures on February 13th. The manager immediately begins processing the recertification but forgets to send out a necessary third-party verification until the last week of March. Despite the manager's efforts to obtain the verification before the end of March, it is not received until April 2nd.

The Parkers' rent is increasing by $21, however, the manager was unable to give the Parkers 30-day notice. The manager must give the Parkers a 30-day notice stating that their new rent amount will be effective June 1st. The new HAP amount will be effective on May 1st and the owner must not charge the resident the new rent until June.

Late Response by Resident

If the owner provides all three recertification reminder notices in a timely manner, and the resident does not respond until after the cutoff date (the 10th day of the 11th month after the last recertification), but prior to the anniversary date, any increase in tenant rent or TTP and any change in the HAP will be effective on the anniversary date. The third recertification notice fulfills the requirement of providing the resident a 30-day notice of rent increase effective on the recertification effective date.

Example 3:

The Lopez family's recertification is due May 1st. They receive all three recertification reminder notices in a timely manner, but they do not respond until March 13th. The household's income has increased. The manager is able to complete the recertification before the anniversary date but would not have enough time to give the household a 30-day notice. However, the new rent amount along with any HAP changes are effective May 1st. Due to the resident's late response, the manager is not required to give 30-day notice of rent increase.

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Resident Response after the Recertification Anniversary Date

If the owner has provided all three recertification reminder notices in a timely manner, but the resident does not respond until on or after the recertification anniversary date, as of the recertification anniversary date, the resident must begin paying the market rent.

The owner should reinstate the resident's assistance if:

- The resident submits the required information;
- Assistance is available; **and**
- The owner determines that the resident still qualifies for assistance

The resident is required to pay the market rent until the first day of the month following the date on which the resident reported for the recertification.

Owners are required to evict the resident if they do not report for the recertification interview and do not pay the market rent. However, owners may not evict for failure to pay market rent after the resident reports for the recertification interview and the recertification is in process.

In cases where the owner completes the income verification processing in the month after the resident reported for the certification, the new rent, TTP, and HAP amounts will still take effect on the first day of the month following the month in which the resident reported for the recertification. The rent and HAP amounts are retroactively effective to that date. The certification must be processed as an initial certification and the resident's recertification date will change going forward to the first day of the month the resident began receiving assistance again.

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Example 4:

The Manning's recertification is due on March 1st. The owner provided the household with all three recertification reminder notices in a timely manner, but the Mannings did not report for their recertification interview until March 9th. The Mannings have supplied the manager with all required documentation and signatures. The manager has determined that the household qualifies for assistance, and there is assistance still available at the property. The Mannings are required to pay the market rent for the month of March. Rental assistance will begin again on April 1st. The manager completes an initial certification effective April 1st. The Manning's new recertification anniversary date is April 1st. If the Mannings rent increased, due to the resident's late response, the manager is not required to give the resident a 30-day notice of rent increase.

EFFECTIVE DATES IN OTHER PROGRAMS

Section 202 PRAC or Section 811 PRAC Properties

In Section 202 PRAC or Section 811 PRAC properties, the resident must be evicted for failure to comply with the recertification requirements. The resident must pay the greater of the operating rent or 30 percent of their income until the eviction proceedings are completed.

Section 236 Properties

In section 236 properties, the resident must pay the 236 market rent. In BMIR properties, the resident must pay the BMIR market rent.

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EXTENUATING CIRCUMSTANCES

There are several extenuating circumstances that may prevent a resident from providing required information by the recertification anniversary date. Owners must inquire whether any extenuating circumstances have applied to the resident household and must consider extenuating circumstances when requested as a reasonable accommodation for a person with disabilities. Examples of extenuating circumstances include hospitalization of the resident, a resident out of town for a family emergency (death or hospitalization of close family member), or a resident on military duty overseas.

Owners must inquire about any extenuating circumstances at the time the resident submits the late recertification information. If the resident indicates that extenuating circumstances were present, they must promptly provide the owner with evidence. Owners must then determine whether the information provided proves that the extenuating circumstances truly prevented the resident from submitting the recertification information prior to the anniversary date. The owner's determination must be sent to the resident in writing and must inform the resident of their right to appeal the decision if the owner determines extenuating circumstances were not present.

If the owner denies the resident's request, they must provide the resident with an opportunity to meet with the owner or designated representative to appeal the decision to raise the resident's rent to market rent within 10 days of the notification. The owner must arrange for a person who was not part of the original determination to conduct the appeal meeting. Residents are allowed to have representation at the meeting, may present information for consideration, and may respond to the information presented.

If it is determined that extenuating circumstances were not present, the owner should continue processing the late recertification and raise the resident's rent to market rate.

If the owner determines that extenuating circumstances were present, the resident's recertification anniversary date does not change. The resident is not required to pay the market rent, and the rent and HAP based on the recertification information provided by the resident are effective retroactively to the recertification anniversary date.

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For any full certification 50059, the O/A and all adult HH members must sign and date the 50059 prior to submission to TRACS.

For any partial certification 50059A, the O/A and the HOH must sign and date the 50059A prior to submission to TRACS. The only exception is a GR 50059A that does not change family's rent or URP, which only has to be signed by the O/A.

If you do not have all required signatures on the 50059s, or when required, on the 50059As, you must enter an extenuating circumstance code indicating why the household member(s) could not sign, prior to submitting to TRACS. If this happens, you must obtain signatures as soon as the member(s) are able to sign, and then submit a corrected 50059 or 50059A with the signature dates.

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Section 6 Interim Recertifications

NON-INTERIM REEXAM TRANSACTIONS

Families may experience changes within the household that do not trigger an interim recertification, but which HUD still requires the O/AA to report to HUD via Form HUD-50059. These are known as non-interim reexamination transactions. In these cases, the O/A will submit a separate, new action code on Form HUD-50059. The following is a list of non-interim reexamination transactions:

- Adding or removing a hardship exemption for the child care expense deduction;
- Updating or removing the phased-in hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction;
- Adding or removing general hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction;
- Adding or removing a minimum rent hardship;
- Adding or removing a non-family member (i.e., live-in aide, foster child, foster adult);
- Ending a family's EID or excluding 50 percent (decreased from 100 percent) of a family member's increase in employment income at the start of the second 12- month EID period (RAD PBRA only);
- 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 recertification 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).

CONDUCTING INTERIM RECERTIFICATIONS

A family may request an interim determination of family income or composition because of any changes since the last determination. The owner must conduct any interim recertification within a reasonable period of time after the family request or when the owner 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 owner generally should conduct the interim recertification not longer than 30 days after the owner becomes aware of changes in income.

The O/A must require families to report household composition changes; however, O/As determine the timeframe in which reporting happens. O/As must develop policies in the TSP that describe when and under what conditions families must report changes in annual adjusted income consistent with the requirements for processing interim recertifications.

When the O/A determines that an interim recertification 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.

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Changes in Family Composition

The owner must require families to report household composition changes; however, the owner determines the timeframe in which reporting happens. The owner must adopt policies in the TSP prescribing when and under what conditions the family must report changes in income and family composition.

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require the owner's approval. However, the family is required to promptly notify the owner of the addition.

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request owner approval to add a new family member or other household member (live-in aide or foster child).

Families must promptly notify the owner if any household member no longer lives in the unit. If the effect of the changes in adjusted income due to a decrease in family size results in either no change or an increase in the family's adjusted income, the O/A must process the removal of the household member(s) as a non-interim transaction without making changes to the family's adjusted income. For example, a family member moved out of the assisted unit. The family's adjusted income prior to the change in household composition was $20,000, but that decreased to $18,000 when the family member moved out. Since HUD requires O/As to process any decreases in adjusted income due to decreases in family size, the O/A must process an interim. For example, a live-in aide moved out of the assisted unit. The family's adjusted income did not change. The O/A must process the removal of the household member as a non-interim transaction without making changes to the family's adjusted income.

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CHANGES AFFECTING INCOME OR EXPENSES

The O/A may decline to conduct an interim recertification if the O/A estimates the family's adjusted income will decrease by an amount that is less than 10 percent of the family's adjusted income. The O/A may set a lower threshold in the TSP such as performing an interim for any decreases in adjusted income, although HUD prohibits the O/A from setting a dollar-figure threshold.

EXAMPLE

- Martha Allen's annual income is $12,000. Her deductions are:
  - $3,000 for health and medical expenses
  - $525 elderly/disabled deduction
  - Her adjusted income is $8,475
- She just incurred a medical expense of $500.
- She is requesting the O/A conduct an interim decrease to account for the new expense.
- The threshold to trigger an interim decrease for Martha is $847.50.
- Adjusted income of $8,475 x 10%
- Since the expense does not meet the 10% threshold, the O/A may, but is not required to, decline to conduct the interim.

HUD requires that the O/A perform an interim recertification 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 recertification.

O/As must not process interim recertifications for income increases that result in less than a 10 percent increase in annual adjusted income. For example, a family consists of a head of household who works full time and another adult who is zero income. The other adult passes away. There is no change in the family's adjusted income.

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O/As must not process an interim reexam for income increases that result in less than a 10% increase in adjusted income.

EXAMPLE
• Mandy Alexander's annual income is $25,000 • Her TANF benefits just increased by $100 per month ($1,200 per year) • $25,000 x 10% = $2,500 • Since the increase is less than 10%, the O/A may not perform an interim

O/As must conduct an interim recertification when the O/A becomes aware that the family's adjusted income has changed by an amount that the O/A estimates will result in an increase of 10 percent or more in adjusted income, with some exceptions. O/As may choose not to conduct an interim recertification during the last three months of a certification period if a family reports an increase in income within three months of the next annual recertification effective date.

EXAMPLE
• Maya Mays annual last year was effective 11/1 • The O/A begins processing Maya's annual for this year in September with an 11/1 effective date • On 10/1 Maya reports that her TANF benefits have increased by $30 per month and this amount meets the 10% threshold for increases • While the change meets the 10% interim increase threshold, the O/A may decline to perform the interim since her next annual will be effective in one month

O/As 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 recertification cycle. When the family previously received an interim recertification for a decrease to adjusted income during the same annual recertification cycle, a O/A has the discretion whether to consider a subsequent increase in earned income. If the TSP states that the O/A will not conduct an interim for increases in earned income when there was a previous interim decrease, the O/A will not perform interims for any increases in earned income, regardless of the amount. If the TSP states that the O/A will conduct an interim for increases in earned income when there was a previous interim decrease, the O/A will perform interims for increases in earned income when the 10% threshold is met.

EXAMPLE 1: EARNED INCOME

- Greg Garland lives alone.
- At his annual reexam in May, he had a job earning $32,200 a year. This was his only source of income.
- Greg did not qualify for deductions and his adjusted income is $32,200 at the time.
- 3 months later, he gets a promotion and a raise to $40,000 a year.
- Since Greg has not had an interim since his last annual, the O/A may not consider the increase in his earned income and will not perform an interim.
- Since the O/A may not consider the increase in earned income, the 10% threshold is not applicable
- The O/A will consider his raise when conducting his next annual reexam

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EXAMPLE 2: EARNED INCOME

- Tameka Barnes lives alone.
- At her annual, she had a job earning $25,000 a year. This was her only source of income.
- Tameka did not qualify for deductions, and her adjusted income was $25,000.
- 3 months later, she lost her job.
- The O/A conducted an interim decrease and made Tameka zero income.
- 2 months later, Tameka got a new job earning $30,000 and reported this to the O/A.
- Since Tameka previously had an interim decreases when she lost her job, the O/A may consider her increase in earned income depending on O/A policy.
- If O/A policy calls for performing an interim in this situation:
  - The O/A must determine if her increase meets the 10% threshold
  - For Tameka the answer is yes because she was zero income
  - The O/A will process an interim
- If O/A policy does not call for performing an interim in this situation:
  - The O/A will not perform an interim
  - The 10% threshold does not apply
  - The O/A will consider the new income from her job at her next annual reexam

For changes in unearned income, the O/A does not consider whether or not an interim was previously performed. The O/A only considers whether the 10% threshold has been met. For changes in earned income, the O/A first considers whether or not the family has had an interim since their last annual.

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EXAMPLE: UNEARNED INCOME
• Maria Media was receiving $90 per month in child support at her last annual in March. This was her only source of income. Her annual income was $1,080. • Maria has two children, and her adjusted income was $120 at the time • In July, she reports to the O/A that her child support has increased to $200 per month. • The O/A must determine if the increase meets the 10% threshold • $120 (adjusted income) x 10% = $12 • Maria's increase meets the threshold since it's more than $12. • The O/A conducts an interim.

When the family reports an increase in both earned and unearned income at the same time, the O/A must look at the earned and unearned income changes independently of each other to determine if an interim recertification is performed. The O/A will only conduct an interim recertification when the increase independently meets the 10 percent threshold and all other requirements for performing interim recertifications. 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 O/A 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 O/A would be required to perform an interim. If the change in earned income met the 10 percent threshold in this case, the O/A would refer to O/A policy to determine whether an interim was required. A series of smaller reported increases in adjusted income may cumulatively meet or exceed the 10-percent increase threshold, at which point the O/A must conduct an interim recertification.

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EXAMPLE: CUMULATIVE INCREASES

- At their last annual effective June 1, 2024, the Mosberg family's adjusted income was $35,909, based on earned income of the HOH and two dependent deductions.
- In August, the HOH reported she received a raise at work, increasing her annual earned income by $2,650. She also recently started receiving monthly child support payments of $150 ($1,800 annually).
- She reported no other changes.
- While the combined increase of earned income (wages) and unearned income (child support) is a 12.3%, the O/A must look at the earned and unearned income changes independently to determine if an interim should be performed.
- The increase in earned income represents a 7% increase.
- The increase in unearned income represents a 5% increase.
- The O/A documented in the tenant file that the family reported the change, but an interim was not performed.
- In November, the HOH reported that her monthly child support payments increased again, from $150 to $325 ($3,900 per year).
- She certified no other changes to income or deductions.
- The change in unearned income represents a 10.8% increase in adjusted income (based on the 6/1/2024 annual).
- The O/A must perform an interim, but only for the change in unearned income.
- The O/A will continue to disregard the increase in earned income until the family's next annual reexam.

FAMILY REPORTING REQUIREMENTS

Owners must develop policies that describe when and under what conditions families must report changes in household composition and adjusted income (e.g., how many days the family has to report a change). The owner's policy may require families to report only changes that the family estimates meet the 10 percent threshold for an interim, or owners may establish a policy requiring that families report all changes in income and household composition, and the owner will subsequently determine if the change requires an interim.

When the owner determines that an interim is necessary, the family must report changes in all aspects of adjusted income. For example, if the family is reporting a decrease in adjusted income, 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.

HUD recommends as a best practice that owners maintain documentation of all reported decreases and increases of any size in the family's file, including those that did not result in an interim.

RESIDENT FAILURE TO REPORT

If the owner discovers that a resident has failed to report as required, the owner must notify the resident in writing of their responsibility to provide information about such changes, including when the EIV new hires report indicates a household has new employment. The written notice must:

- Reference resident reporting requirements under the lease;
- Give the resident 10 calendar days to respond to the notice; and
- Inform the resident that their rent may be increased to the market rent if they do not respond within 10 days.

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EFFECTIVE DATES

Regardless of whether an interim results in an increase or decrease in the resident portion of rent, both the change in HAP and the rent amount are effective on the same day.

CFR 5.657(c)(5)

If the resident responds in a timely manner and supplies the owner with all required information, the resident must receive a 30-day notice of a rent increase. The effective date of the increase will be the first of the month after the end of the 30-day notice period. If the resident rent has decreased, the decrease will be effective on the first of the month after the date of the action that caused the interim recertification.

CFR 5.657(c)(5)(ii)

If the resident does not report a change in income or composition timely in accordance with the owner's policies, the owner must initiate an interim recertification.

Any resulting rent increases must be applied retroactively to the first of the month following the date of the change leading to the interim recertification.

Any resulting rent decrease must be implemented no later than the first rent period following completion of the recertification. However, at the discretion of the owner, rent decrease may be applied retroactively, except that a decrease may not be applied prior to the later of the first of the month following:

- The date of the change leading to the interim recertification; or
- The effective date of the family's most recent previous interim or annual recertification (or initial examination if that was the family's last examination).

Section 7 Gross Rent Changes

HUD Handbook 4350.3, Chapter 7, Section 4

Annually, owners are required to perform and submit a utility allowance analysis (UAA) for each HUD multifamily property on or before the property's contract anniversary date. Generally, the UAA is completed in conjunction with an annual rent increase or contract renewal. This process will be discussed in detail in a later chapter.

Any time there is a utility allowance change and/or a contract rent change on a property, the owner must complete a gross rent change for each household and/or unit on the property. When a utility allowance or contract rent amount changes, the owner must provide each resident with a new HUD-50059-A that reflects these changes. Gross rent 50059-As must be signed and dated by the owner or the owner's agent, but only need to be signed and dated by the resident if the resident's rent portion or utility reimbursement amounts have changed. Owners must keep a signed and dated copy of the gross rent 50059-A in the resident file.

Utility allowance and contract rent changes must be effective on the same date unless a UAA is completed mid-year due to a 10 percent or greater rate increase in tenant-paid utilities. In those cases, the new UA must be effective the first day of the first month following approval by HUD or the contract administrator (CA).

Owners must comply with the resident comment and posting procedures described in 24 CFR 245. Owners are required to give all residents a 30-day comment period for any contract rent increase or utility allowance decrease and are also required to give residents an additional 15-day comment period if there were any changes made based on previous comments.

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The owner is required to submit the rent increase and UAA to HUD or the CA for approval before implementing any rent or utility allowance change. The process is as follows:

1. Owner completes the required documentation for the UAA and contract rent increase.
2. Owner submits request and documentation to HUD or CA.
3. Owner receives approval for UA and rent changes from HUD or CA.
4. Owner completes and produces a gross rent certification (form HUD-50059-A) for each household in the owner's software, effective on the date approved by HUD or the CA. In some cases, this date may be retroactive.
5. Owner changes the certification and adjusts the monthly subsidy voucher.
6. Owner signs and dates all 50059-As and has each resident sign and date, if applicable.
7. Owner transmits all 50059-As to HUD or CA for processing in TRACS for each resident in the property.

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Section 8 Chapter 6 Post Test

1. If a resident moves in on June 10th, their annual recertification date the following year is July 1st.
   a. True
   b. False

2. Does a resident's annual recertification date change if the household transfers to a new unit?
   a. Yes
   b. No

3. Which recertification notice is the resident required to sign?
   a. Third reminder notice
   b. First reminder notice
   c. Initial notice
   d. Second reminder notice

4. A 50059 without all required signatures may only be submitted to TRACS when resident missed their interview appointment.
   a. True
   b. False

5. Residents receive an initial notice of recertification:
   a. 120 days before their annual recertification date
   b. When they initially sign their lease
   c. At the completion of each annual recertification
   d. Both b and c

6. If a resident reports changes in income timely, the resident must receive a 30-day notice only if the resident's rent will increase.
   a. True
   b. False

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7. The owner must give a resident 30-day notice of rent increase if the resident reported for their recertification after the 10th day of the 11th month following the last recertification.
   a. True
   b. False

8. All gross rent change 50059-As must be signed and dated by both the owner and the resident.
   a. True
   b. False

9. When a resident does not report to the owner until after the recertification anniversary date, the owner must:
   a. Terminate tenancy as of the first day of the month following the anniversary date
   b. Must transfer the resident to an unassisted unit if one is available
   c. Must terminate assistance and charge the resident market rent beginning on the anniversary date, and until the first day of the month following the date they reported
   d. Send the resident a 30-day notice that they will be evicted if they don't report within 10 calendar days

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Notes

CHAPTER 7 Terminations

Section 1 Learning Outcomes and Overview

LEARNING OUTCOMES

Upon completion of this chapter, you should be able to:

- Describe the requirements regarding termination of assistance, including when assistance is terminated, notification requirements, and when assistance may be reinstated
- Explain when termination of tenancy is required, and when it may or may not occur
- Identify resident discrepancies and errors and determine whether such errors are resident-caused and constitute a program violation
- Explain situation in which reimbursement of HAP and overpaid rent would occur, and when repayment agreements (RPA) are necessary

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Section 2 Overview

Owners are required to enforce program requirements in the lease; however, a violation of the lease does not automatically lead to termination of assistance or tenancy in all cases. HUD encourages owners to work with tenants and use other corrective action measures in situations where it is beneficial to both the owner and tenant.

HUD Handbook 4350.3 draws a distinction between terminating assistance and terminating tenancy.

- **Termination of assistance**: Occurs when a tenant is no longer eligible for subsidy or to enforce HUD program requirements. While the tenant no longer receives subsidy, they may be eligible to remain in the unit, although their rent payment will be affected. Termination of assistance does not necessarily lead to eviction from the unit.
- **Termination of tenancy**: Occurs in limited circumstances when the tenant has violated the lease, HUD regulations and/or state or local law. It is the first step in the eviction process.

When initiating a termination of assistance or tenancy, owners are required to follow proper notification and documentation procedures and may only terminate for reasons permitted by HUD.

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Section 3 Termination of Assistance

HUD Handbook 4350.3, Chapter 8, Section 1

Termination of assistance occurs because of a change in the resident's eligibility for assistance or their failure to fulfill specific responsibilities under the program. The owner may not terminate assistance for any other reasons. When assistance terminates, the resident's rent amount increases to the market or contract rent amount. The owner must give the resident proper notice of a rent increase. Once assistance terminates for the resident, assistance may be made available for another household depending on the property and assistance contract type. The resident is not required to move from the unit because of a termination of assistance.

The owner must terminate assistance when:

- Household does not provide required information at the time of their recertification
- Household does not sign or submit required consent and verification forms
    - This does not apply if applicants or participants or their family members revoke their consent for the owner to access financial records unless the owner has established a policy that revocation of consent to access financial records will result in denial or termination of assistance or admission.
- Student eligibility requirements are not met;
- Household doesn't meet occupancy requirements for current unit and refuses to transfer after 30 days' notice when an appropriately sized unit is available;
- Household started receiving assistance, but the owner is unable to establish citizenship/eligible immigration status for any household member;
- SSN disclosure requirements (listed in Chapter 3 of your book) are not met within the specified timeframe; and
- Household's income has increased to the point where they pay the full contract/market rent.
    - See Chapter 3 for a discussion of how this differs in RAD PBRA projects.

ASSET LIMITATION

O/As have discretion whether to apply the asset limitation to residents at annual and interim recertification. The O/A must adopt policies in the TSP regarding the asset limitation and may adopt a written policy of:

- Total non-enforcement
- Enforcement
- Limited non-enforcement
- Exceptions for some families

The O/A may choose not to enforce the asset limitation at all for any residents. If the O/A adopts a total non-enforcement policy, it must apply the same for all families.

If the O/A chooses to adopt a policy of enforcement, at every recertification, the O/A determines whether families are out of compliance with the asset limitation. If a family is out of compliance, the O/A must initiate termination of assistance within six months of the recert effective date. Families are not given an opportunity to cure noncompliance.

If the O/A chooses to adopt a policy of limited enforcement, noncompliant families are given an option to cure. The O/A specifies a time period to cure in policy of up to but no longer than six months (except as a reasonable accommodation). If family remains out of compliance after cure period, O/A must initiate termination of assistance within six months of the effective date of the recertification.

The O/A may also identify exception policies in the TSP. Families in a specified exception category (or categories) may be subject to total non-enforcement or limited enforcement. This may be combined with an enforcement policy for families not in an exception category or the O/A may give families in an exception category longer to cure noncompliance (though not more than six months, except as a reasonable accommodation) than those who are not in an exception category.

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NOTIFICATION REQUIREMENTS

The owner must provide proper notice to the tenant that their assistance is being terminated and their rent will increase. The notice should include:

- The specific date the resident's assistance will terminate
- The reason for the termination
- The rent amount the resident will be required to pay once the termination is completed
- Notice that if the resident does not pay the new rent amount, the owner has the right to seek termination of tenancy and pursue eviction in court
- Notice that the resident has 10 days to request a meeting with the owner to discuss the proposed termination of assistance

All termination of assistance notices should be served by sending a letter first class mail, properly stamped and addressed and including a return address, and by delivering a copy of the notice to any adult person who answers the door of the unit. If an adult does not open the door, the notice may be placed under or through the door or posted on the door in a conspicuous place. The date the notice is deemed received by the resident is the later of the date the notice is mailed or the date the notice is properly delivered. For the notice to be considered effective it must be both mailed and hand delivered.

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REINSTATEMENT OF ASSISTANCE

In certain circumstances, owners have the option to reinstate a resident's assistance. To do so, the termination of assistance must have occurred either because of the resident's failure to complete a recertification or the household's income increased to the point where the household was paying the contract rent.

Assistance may be reinstated if:

- The household is now eligible to receive assistance;
- The resident has completed the required paperwork such as an annual recertification;
- The termination was not due to fraud; and
- There is assistance available at the property that can be used by the household

Example: *Alma Martinez lives in a Section 8 unit at Happy Valley Apartments. At her last annual recertification in May, Alma was unemployed and her only source of income was unemployment payments. Alma was paying $60 in tenant rent. On 9/16 Alma reports that she got a new job. Based on her new income, Alma's TTP exceeds the gross rent for her unit, and her assistance was terminated after proper notice of the rent increase. As of 11/1, Alma now pays the full contract rent amount. On 1/12 Alma reports that she's been laid off and provides proper documentation. Since assistance is available, and Alma reported her changes in income properly, the manager re-instates Alma's assistance on 2/1.*

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Section 4 Termination of Tenancy

Unless the resident's tenancy is being terminated the lease renews automatically at the end of its term. Owners may not refuse to renew the lease solely because the lease term has expired. In order for owners to terminate a resident's tenancy either during or at the end of the lease term, the owner must establish that the basis for the termination falls under HUD-required lease provisions and state and local laws.

Residents may terminate their lease by giving the owner at least a 30-day notice to vacate before leaving the unit. State landlord-tenant law may require a longer notice period.

TERMINATION BY OWNER

HUD Handbook 4350.3, Chapter 8, Section 3

There are several circumstances under which owners may initiate the termination process. Owners are required to enforce the lease and house rules to maintain the health, safety, and peaceful enjoyment of the premises of other residents and to ensure assistance is only received by eligible households.

MATERIAL NON-COMPLIANCE WITH LEASE

Owners may terminate a resident's tenancy for any material non-compliance with the lease. This includes:

- Failure to comply with recertification requirements
- Failure to submit required evidence of citizenship, immigration status, or social security numbers
- Drug abuse or other criminal activity
- Refuses to sign and submit required consent and verification forms
- Extended absence from the unit as defined by the property's house rules
- Abandonment of the unit as defined under state or local law
- Fraud

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Repeated Minor Violations

Termination of tenancy may be initiated by the owner for repeated minor violations that:

- Disrupt the livability of the property
- Affect the health and safety of other residents
- Interfere with management
- Have an adverse financial effect on the property

These types of minor violations are not considered material non-compliance with the lease. Termination may not be initiated unless the minor violations are repeated.

Repeated minor violations include, but are not limited to:

- Failure to pay utilities
- Failure to pay the cost of repairs due as a result of household carelessness or negligence;
- Repeated unauthorized occupants
- Continual noise during quiet hours that disrupts other residents rights to peaceful enjoyment of the property
- Repeated damage to the unit caused purposefully or because of resident carelessness or negligence

Non-Payment of Rent

Residents are responsible for paying all amounts due under the lease or as part of a repayment agreement. If amounts are not paid, the household may be terminated after the grace period allowed under state or local law has expired.

Effective January 13, 2025, Multifamily owners must provide residents a 30-day notice for eviction for nonpayment of rent. The notice must include instructions on how the resident can cure the violation, including:

- Itemized amounts, separated by month of alleged rent owed by the resident;
- Any other arrearages;
- The date by which the resident must pay before an eviction can be filed; and
- Information on how the resident may recertify their income or request a minimum rent hardship exemption.

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The owner must not provide residents with a termination notice prior to the day after the rent is due according to the lease, or proceed with filing a formal judicial eviction if the resident pays the alleged amount of rent owed within the 30-day notification period.

NONDISCLOSURE/FAILURE TO PROVIDE VERIFICATION OF SSN

The owner must terminate tenancy of a tenant and the tenant's household if SSN disclosure requirements are not met within the specified timeframe.

In households where children under the age of six who do not have a SSN are added, the household must disclose and document the child's SSN within 90 days. At their discretion, the owner may provide the resident with an extension of 90 days past the household's next regularly scheduled recertification for circumstances outside the household's control and when it is likely that the resident will be able to meet the requirement by the deadline.

Owners may not prorate assistance for households that include members who were required to obtain or disclose their SSN but failed to do so. This requirement does not apply to individuals who do not contend eligible immigration status or tenants who were age 62 or older as of January 31, 2010, whose initial determination of eligibility was begun before January 31, 2010.

> ***Example**: Andrea and her two children make up an assisted household who lives at Happy Valley Apartments. The household' recertification date is 7/1. In April, Andrea informs the manager of Happy Valley that she will soon receive court-ordered custody of her nephew (age 4), and he will be moving into her household effective immediately. Andrea does not have her nephew's SSN or supporting documentation at the time she informs the manager. The manager informs Andrea that her nephew's SSN and supporting documentation must be provided within 90 days of the date her nephew moves into the unit.*

Andrea is unable to provide the required information within 90 days because a final custody hearing is not scheduled until 8/25. Andrea requests an extension. The manager of Happy Valley grants the extension based on documentation showing that Andrea will be granted permanent custody at the hearing, the hearing date is out of her control, and it is likely the information will be provided within 90 days of the household's next regularly scheduled recertification.

Drug and Alcohol Abuse or Other Criminal Activity

The owner has the authority to terminate tenancy in accordance with the model lease and state or local law for certain types of drug and alcohol abuse and other criminal activity. The resident's tenancy is subject to termination when covered persons engage in these types of activities, including the tenant, household members, guests or any other persons under the resident's control. Another person under the tenant's control is defined as a person who is not staying in the unit but is on the premises at the time of the activity in question at the invitation of the tenant or other member of the household. People on the premises temporarily and infrequently for legitimate business purposes are not considered other persons under the resident's control.

The owner has the authority to terminate tenancy for criminal activity that:

- Threatens the health, safety, or right to peaceful enjoyment of the property by other residents, including management or maintenance staff who lives on the property
- Threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the property

Owners may terminate tenancy and evict a household for:

- **Illegal Drug Use**: If an owner determines that a household member is using an illegal drug or that a pattern of illegal drug use interferes with the health, safety, or right to peaceful enjoyment of the property for other residents

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- **Alcohol Abuse:** If an owner determines that a household member's abuse or pattern of abuse of alcohol interferes with the health, safety, or right to peaceful enjoyment of the property for other residents
- **Lifetime Sex Offender**: The owner must terminate the tenancy of anyone subject to a lifetime registration requirement under a state sex offender registration program if the person was admitted erroneously. If the owner accidentally admitted a lifetime sex offender, the household must be offered the opportunity to remove the member from the household or face termination.
- **Other circumstances**: The owner may also terminate tenancy for fleeing to avoid prosecution; custody or confinement after conviction for a crime; attempting 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; and violating a condition of probation or parole imposed under federal or state law.

Owners may terminate tenancy and evict covered individuals regardless of whether there has been an arrest or a conviction. The owner does not have to satisfy the same standard of proof as in a criminal conviction, rather they simply need to determine that a covered person engaged in the activity.

Consideration of Circumstances When There is a Record of Arrest

When determining whether to terminate assistance based on criminal activity in cases when there is a record of arrest, owners 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 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

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When terminating tenancy for drug or alcohol abuse and other criminal activity, there are several factors that owners may take into consideration, including:

- The seriousness of the offense
- The effect the termination would have on the community
- The extent of the resident's participation in the activity
- The effect the termination would have on the members who were not involved in the activity
- The demand for assistance by households who will adhere to lease responsibilities
- The extent to which the resident has shown personal responsibility and taken all reasonable steps to prevent or mitigate the activity
- The effect of the owner's action on the integrity of the program

If a resident or covered person is no longer engaged in drug or alcohol abuse, owners may require evidence that the person is participating in or has successfully completed a rehabilitation program or has otherwise been successfully rehabilitated.

The owner may require the household exclude a culpable member in order to continue to reside in the unit if that member participated in or is responsible for an action or a failure to act that warrants termination.

Failure to Comply with Local or State Landlord/Tenant Law

Many states and localities have landlord/tenant laws governing the behavior of both owners and residents. If residents violate any obligations under state landlord/tenant law, the owner has the right to terminate tenancy.

Other Good Cause

Other good cause for termination of tenancy is not governed by HUD regulations, but rather by state and local laws. Resident conduct may be deemed good cause for termination of tenancy as long as the owner has given the resident written notice and stated the conduct would be grounds for termination. Good cause issues may be resolved by both parties in court through the eviction process.

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CRIMINAL BACKGROUND CHECKS

The owner is permitted to access criminal records and/or state lifetime sex offender registration records during tenancy for lease enforcement or eviction provided this is indicated in the property's Tenant Selection Plan (TSP). Background checks and any decisions based on information therein must be applied consistently. Before a background check may be completed, the owner must obtain a signed consent form.

When performing background checks, the owner has the option to use the local PHA, a contractor, or to perform their own. The PHA or contractor may charge owners for their services; however, owners may not pass these costs on to applicants or residents. If the owner chooses to use a PHA or contractor, the owner's selection criteria must be provided to the agency performing the background check.

Depending on the owner's admission policies or termination standards, an applicant may be denied and a resident may be evicted based on the information contained in their criminal background check. If denial or eviction is warranted, the owner must:

- Notify the household of the proposed action;
- Provide the subject of the record and the applicant or resident with a copy of the information the action is based on; and
- Provide the household with an opportunity to dispute the accuracy and relevance of the information.

HUD Handbook 4350.3 Chapter 8, page 8-22

Records obtained by a PHA or owner must be maintained confidentially and not be misused or improperly disseminated. PHAs must comply with destruction requirements at 24 CFR 5.903(g) and ensure records are destroyed upon completion of the originally intended use.

- If owners use the local PHA for criminal records, owners must keep documentation in the resident file showing the date, type, and results of the check performed by the PHA.
- If owners use a contractor or performs their own check, records must be destroyed three years after tenancy is terminated or must be kept with the original application for three for applicants who never moved in.

Owners or management agents who knowingly and willfully request or obtain records of this nature or who disclose any such information in any manner to any individual not entitled to the information faces a misdemeanor conviction and fine up to $5,000.

NOTIFICATION

When a resident's tenancy will be terminated, the owner must properly notify the resident of the termination in writing. Owners should be aware of state and local laws governing notice to the tenant that are often more restrictive than HUD requirements. Tenancy termination notifications must include:

- The specific date the resident's tenancy will terminate
  - When the termination is for other good cause, the notice must be effective at the end of the lease term, and the resident must receive at least 30 days' notice. This termination notice may run concurrently with any comparable notice period required by state and local law.
- The reason for termination
  - The owner must give enough detail for the resident to prepare a defense
  - When the termination is for material noncompliance, the time of service of the termination notice must be compliant with the lease and state law
- In the case of failure to pay rent, the O/A must provide the tenant with a termination notice at least 30 days before a formal judicial eviction is filed. All termination notices in cases of failure to pay rent must include the following:
  - Instructions on how the tenant can cure the nonpayment of rent, 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 can recertify their income and apply for a hardship exemption

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- The O/A must not provide tenants with a termination notice prior to the day after the rent is due according to the lease. An owner must not proceed with filing an eviction if the tenant pays the alleged amount of rent owed within the 30-day notification period.
- Notice that if the household remains in the unit after the termination date, the owner may enforce the termination in court where the resident may present a defense
- Language stating the resident has 10 days to request a meeting with the owner to discuss the termination of tenancy
- Advise the resident that persons with disabilities have the right to request reasonable accommodations to participate in the meeting process

For Section 236, Section 221(d)(3), Rent Supplement, Section 202/8, Section 202 PAC, Section 202 and 811 PRAC, Section 8 LMSA, and Section 8 Property Disposition Set-Aside properties, all termination of tenancy notices must be served by sending a letter first class mail and delivering a copy of the notice to any adult person who answers the door of the unit. If an adult does not open the door, the notice must be placed under or through the door or posted on the door in a conspicuous place. The date the notice is received is the day the notice is mailed or properly given to the household. For the notice to be effective, it must be both mailed and hand delivered.

Section 8 programs must serve termination notices in accordance with state and local law.

Residents may only be evicted by judicial action pursuant to state and local law. Where eviction is concerned, owners must rely on the information contained in the termination notice that was previously served to the resident. If a resident does not object to the termination notice, that does not mean the resident has waived their rights to contest the owner's action in a court of law.

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RAD PBRA: Grievance Process

Residents in RAD PBRA properties have additional resident procedural rights. The owner must include these requirements in the property's house rules. Attachment 1E of Notice H 2019-09 contains a model addendum.

In addition to notice requirements under 24 CFVR Part 245, owners must give residents notice of the specific grounds of any proposed adverse action, as well as their right to an informal hearing with the owner. The informal hearing must be conducted by an impartial member of the owner's staff within a reasonable period of time. The resident has the opportunity to:

- Be represented by another person of their choice;
- Ask questions of witnesses;
- Have others make statements at the hearing; and
- Examine any regulations and any evidence relied upon by the owner as the basis for the adverse action

With reasonable notice to the owner, prior to hearing and at the residents' own cost, residents may copy any documents or records related to the proposed adverse action.

Within a reasonable period of time, the owner must provide the resident with a written decision stating the grounds for the adverse action and the evidence the owner relied on as the basis for the adverse action.

The owner is bound by hearing decisions, except if:

- The hearing concerns a matter that exceeds the authority of the impartial party conducting the hearing.
- The decision is contrary to HUD regulations or requirements, or otherwise contrary to federal, State, or local law.

If the owner determines that they are not bound by a hearing decision, they must promptly notify the resident and state the reasons for the determination. Unless the project received a specific "good cause" exemption, families have a Choice Mobility right, which must be stated in the House Rules as shown in sample in Attachment 1E of Notice H 2019-09.

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RAD PBRA: Notification of Termination

There are additional requirements for termination notification and grievances for RAD PBRA properties. The owner must include these requirements in the property's house rules. Attachment 1E of Notice H 2019-09 provides a sample of the required language.

Residents must be provided with adequate written notice of termination of the lease which is not less than a reasonable period of time, but not to exceed 30 days:

- If the health or safety of other tenants, owner employees, or persons residing in the immediate vicinity of the premises is threatened; or
- In the event of any drug-related or violent criminal activity or any felony conviction;
- 30 days in the case of nonpayment of rent
- 30 days in any other case, except if State or local law provides for a shorter period of time, such shorter period shall apply

In all other cases, requirements at 24 CFR 880.603, the Multifamily Model Lease, and any other HUD multifamily administrative guidance applies.

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Section 5 Discrepancies and Errors

HUD handbook 4350.3, Chapter 8, Section 4

The first step is to identify any errors or discrepancies that involve a resident. The owner must determine whether the error is a program violation or a resident error.

- **Program violations** are any action or inaction by the resident that breaches the lease, regulations, or any other program requirements.
- **Resident errors** are unintentional program violations where the resident may have misunderstood or forgotten the rules.

If an owner suspects that a resident has misrepresented income or eligibility information, the owner is required to investigate the situation before making any determinations that affect assistance. The investigation may include:

- Asking the resident to clarify discrepancies between resident-provided information and conflicting information received by the owner.
- Requesting additional pertinent information from other persons, agencies, or third-party sources that will help determine the facts of the case.
- Taking any other fact-finding actions that will verify the resident-provided information or the conflicting information.

Owners must fully document the investigation, all resident statements, and any pertinent information received. Owners may not terminate assistance or make any final denial of benefits until the investigation has been completed and the resident's information or conflicting information has been verified. If the error cannot be substantiated as intentional through verification, it must be treated as an unintentional resident error.

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RESIDENT MEETING

As soon as the investigation has been completed and the owner has verified all necessary information, the owner must notify the resident in writing of the error. The resident must be informed:

- What information is believed to be incorrect;
- That they have the opportunity to meet with the owner within 10 days to discuss the information; and
- That their failure to meet with the owner may result in a termination of tenancy

The resident meeting must be with a designated owner representative that has not been involved with the investigation or any other matter concerning the resident. It is also recommended that the representative not be someone who is supervised by the person who discovered the information and completed the investigation. Within 10 days of the meeting, the owner must provide a written final decision stating the basis for the decision.

There are three outcomes that may arise if the resident appears for the owner meeting:

1. The resident meets with the owner and the owner determines that the information the resident provided was accurate and correct. In this case, the owner should properly document the resident file and close the investigation.

2. The resident meets with the owner and the owner determines that the information provided by the resident was incorrect and an unintentional program violation was made. In this case, the owner should correct the certification(s), notify the resident of any rent change, and make payment arrangements for any assistance the resident owes.

3. The resident meets with the owner and the owner determines that the resident intentionally provided incorrect information. If the owner can substantiate this through documentation, then the incident must be pursued as fraud.

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FRAUD

In some cases, owners may determine that a resident has intentionally mislead them and received assistance for which they are not eligible. Fraud is a criminal violation, an intentional deception that cannot be committed accidentally. Resident errors should not be mistaken for fraud; owners must first review and assess all information before labeling a violation as fraud.

> ***Example**: Caitlin is a new resident of the Happy Valley Apartments who is Section 8-assisted. She moved in on 7/1. At the time of move-in, she reported zero income which made her tenant rent portion zero. 90 days after move-in, the manager of the Happy Valley Apartments reviewed Caitlin's EIV income report, which shows Caitlin has consistent earnings from employment starting in the first quarter of the prior year. The manager begins an investigation, verifies the information through an independent verification source, and notifies Caitlin that she has 10 days to meet with a representative of the owner. During the meeting, Caitlin admits that she has been employed and received earned income since before she moved in. She also admits that she intentionally did not provide this information. Based on Caitlin's admission and the independent information gathered by the manager, the owner's representative determines Caitlin committed fraud.*

DOCUMENTATION OF FRAUD

If, after investigation and meeting with the resident, the owner finds that the resident has committed fraud, the resident's file must contain specific documentation to support this determination, including:

- Move-in and recertification paperwork with the resident's signature showing that the resident was made aware of all program requirements
  - (HUD Fraud Handout, Tenant Rights and Responsibilities brochure, signed lease, etc.

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- Documentation showing that the resident intentionally gave false information or withheld important information such as:
  - Resident provided incorrect names or SSNs
  - Resident supplied documents that were falsified, fraudulent, or altered
  - Resident did not inform the owner of income received
  - Resident admitted the illegal action to another person
  - Information showing the action was committed repeatedly or a pattern in shown

It is critical that owners ensure there is enough documentation to support the claim of fraud and that the documentation present is clearly not a resident error.

If fraud is discovered, the owner must begin the eviction process and file a civil action against the resident to attempt to recover the improper subsidy payments. The owner is not required to file a criminal case against the resident, however, owners may consider forwarding the case for criminal prosecution on a local, state, or federal level.

EIV Discrepancies

Throughout the year, owners are required to pull EIV reports and ensure that all discrepancies are resolved. Discrepancies may be found on several EIV reports including the Income Discrepancy report, Income Report, the Multiple Subsidy report, and the Deceased Tenants report. Any EIV discrepancies must be handled through the same process as in any other circumstance. Residents have the right to contest EIV information. Owners may not terminate assistance or make any final denial of benefits until the investigation has been completed and the information has been independently verified.

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Section 6 Reimbursement of HAP, Overpaid Rent, and Repayment Agreements (RPA)

HUD Handbook 4350.3, Section 8-21

Any amount of HAP overpayment must be repaid to HUD no matter if the resident or the owner was at fault. Both owners and residents have several repayment options and must adhere to HUD regulations concerning repayment.

Resident Reimbursement to Owner

The resident must reimburse the owner if the resident was charged a lower rent amount than they would have because they:

- Failed to provide the owner with interim changes in income or other factors that would have affected the residents rent portion
- Submitted incorrect information on any application or certification
- Failed to report any income received

In these cases, the resident must repay the owner the difference between the rent the household should have paid and the rent the household was actually charged. However, if the under-payment of rent was because of an owner-caused error, the resident is not required to reimburse the owner.

Resident reimbursements to the owner may go back as far as five years. Since the HUD-9887 and HUD-9887-A explain this in detail, it is a best practice for owners to explain this information when residents sign the 9887 and 9887-A at move in and annual reexamination.

> ***Example****: Nick and Nate live at Happy Valley Apartments and receive Section 8 assistance. Nick is employed full time. His employment was fully disclosed and documented during the household's last recertification effective 1/1. Nate has a part-time job where he is on call and his hours are not consistent. Because his earnings are uncertain, small in amount, and infrequent, Nate misunderstood the requirement to report income and did not report his earnings from the part-time job. The owner became aware of Nate's part-time job on 7/1.*

Before the owner discovered Nate had a part-time job, the household's rent amount of $300 was based solely on Nick's employment. After verifying Nate's income, the owner determines that the household's rent amount should have been $410. Nick and Nate must pay back the difference in rent; a total reimbursement amount of $770.

RESIDENT REPAYMENT OPTIONS

Residents may repay any amounts due in one of three ways:

- One lump sum payment of the total amount due
- Enter into a repayment agreement (RPA) with the owner to pay the total in installments over a specific period of time
- A combination of a lump sum and RPA

  ***Example**: In the case of Nick and Nate, the household and the owner have agreed to a combination repayment. Nick and Nate will pay a lump sum of $300 and then sign a RPA with the owner to pay off the remaining $470 in installments over the next eight months.*

The terms of any repayment agreement must be mutually agreed upon by the owner and the resident. HUD requires that the monthly payment be affordable. The monthly payment amount plus the resident's TTP at the time the RPA is executed should not exceed 40 percent of the household's monthly adjusted income. To ensure the payment amount is affordable, the owner may have to extend the repayment period. It is very common for RPAs to last for more than a year.

***Example**: The Sullivans are an assisted household at Happy Valley Apartments. They received an overpayment of HAP of $1,325. The overpayment was the household's fault due to an unintentional program violation. The household's adjusted monthly income is $1,600, and their TTP is $480.*

$1,600 X 40% = $640

$640 - $480(TTP) = $160Monthly RPA amount

$1,325 (Total RPA amount) / $160 (Monthly RPA amount) = 8.3 month repayment agreement

The Sullivans and Happy Valley have come to an agreement that the household will pay off the amount owed over the next 12 months.

In any case, the resident must agree to pay back the amounts owed or be subject to termination of tenancy. Residents may also be required to pay back amounts due because of civil action by the owner or by court action due to an OIG audit.

The owner may not apply monthly Utility Reimbursement Payments (URPs) to unpaid or late rent or unpaid damage charges. All RPAs must:

- Include all retroactive amounts due, any lump sum paid at the time of the RPA was signed, and the mutually agreed upon monthly payment amount
- Include references to the applicable paragraphs in the and state the resident may be subject to lease termination for noncompliance
- Include a clause stating the terms of the RPA may be renegotiated if the household has an income increase or decrease 10% or more of the family's adjusted income or more per month
- Include language stating the monthly RPA amount is due in addition to, not in lieu of, the monthly rent amount
- Include language stating that late and/or missed payments constitute a default of the RPA and may result in termination of assistance and/or tenancy
- Be signed and dated by both the resident and the owner

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OWNER REIMBURSEMENT TO HUD

Owners are not required to immediately reimburse HUD for HAP overpayments that are resident-caused. If the owner signs a repayment agreement with the resident, the owner may reimburse HUD as they receive payments from the resident.

In an effort to ensure owners are compensated for the cost of investigating and pursuing cases of resident-caused overpayments, HUD allows owners to retain a portion of the repayment amount. This applies to all cases of improper reporting by the resident, not just in cases of fraud.

The owner may retain the lesser of:

- Actual costs; or
- 20 percent of the amount received from the resident

All amounts retained by the owner must be deposited in the property's operating account and must be thoroughly documented. The owner must keep a record of:

- Date and amount received
- All expenses incurred such as staff time, creating and sending monthly invoices to the resident, creating manual voucher adjustments, and collection agency fees
- The amount the owner retained
- The voucher date and amount of reimbursement made to HUD

All overpayments of assistance that were caused by owner error or owner failure to follow HUD procedures, must be repaid to HUD by the property. Depending on the financial circumstances of the property, HUD or the CA may require monies to be repaid in one lump sum or in a reduction of normal HAP payments over several months. In any case, HUD or the CA will analyze the financial circumstances of the property to ensure a full repayment would not jeopardize the financial health of the property.

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DE MINIMIS ERRORS

O/As will not be considered out of compliance solely due to de minimis errors in calculating family income. De minimis errors occur when a O/A's determination of a family's income deviates from the correct income determination by no more than $30 per month in monthly adjusted income (or $360 in annual adjusted income). O/As will not be issued a finding by HUD or the Contract Administrator for de minimis errors in income calculation. As O/As become aware of the existence of an income calculation error, they are obligated to correct the error(s) retroactive to the effective date of the action the error was made regardless of the dollar amount associated with the error. O/As must take corrective action to credit or repay a family if the family was overcharged tenant rent, including when O/As make de minimis errors in the income determination. Families will not be required to repay the O/A in instances where the O/A miscalculated income resulting in a family being undercharged for rent. O/As must state in the TSP how they will repay or credit a family the amount they were overcharged as a result of the O/A's de minimis error in income determination.

RAD PBRA

Subsidy related repayment agreements may be necessary when a tenant is over-subsidized by HUD for a period of time. When this occurs, the owner and tenant will enter into a repayment agreement according to the procedures set forth in HUD Handbook 4350.3, REV-1, Chapter 8.

1. Funds Owed prior to RAD Conversion. If an adjustment shows that the tenant owed money due to an underpayment of rent that occurred prior to the effective date of the RAD HAP Contract, the money attributed to this time period is out of the control of Multifamily Housing. No recapture of subsidy is necessary. PHAs must not enter the debt into the Earned Income Verification “Debts Owed” module.

2. Year of Conversion Repayment Funds. For properties converting under RAD, any money that is to be repaid during the year of conversion must not be returned through TRACS in the form of a voucher adjustment. In accordance with Section 2.5 of the HAP Contract, the owner is permitted to keep these funds for operating costs. Some examples for use are resident services or to contribute to a project’s capital or operating reserve. The funds cannot be applied to residual receipts and cannot be withdrawn as distributions.

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3. Subsequent Year Repayment Funds Money repaid after the initial Year of Conversion is returned to HUD through a voucher adjustment and following the requirements found in the MAT Guide.

Example

RAD Property executes a HAP Contract on July 1, 2024. The tenant misreported income on the May 1, 2024, PIH Annual Recertification resulting in a $20 per month overpayment of subsidy. The tenant begins paying the correct TTP on February 1, 2025. The amount due for the overpayment of subsidy is $180 (9 months times $20).

Breakdown of Amounts due:		
May 2024	$20	Tenant was in PIH, no action needed for this overpayment.
June 2024	$20	Tenant was in PIH, no action needed for this overpayment.
July 2024	$20	This overpayment occurred during the year of conversion. Money is owed to the O/A.
August 2024	$20	This overpayment occurred during the year of conversion. Money is owed to the O/A.
September 2024	$20	This overpayment occurred during the year of conversion. Money is owed to the O/A.
October 2024	$20	This overpayment occurred during the year of conversion. Money is owed to the O/A.
November 2024	$20	This overpayment occurred during the year of conversion. Money is owed to the O/A.
December 2024	$20	This overpayment occurred during the year of conversion. Money is owed to the O/A.
January 2025	$20	This overpayment was from MFH funding and is adjusted through a voucher adjustment.

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Section 7 Chapter 7 Post Test

1. In some cases, a resident whose assistance has been terminated may remain in the unit.
   a. True
   b. False

2. In a non-RAD property, if a household's income increases to the point where they pay the full contract rent, their assistance will terminate after proper notice from the owner.
   a. True
   b. False

3. Owners may terminate a resident's assistance if any adult household member or guest commits a single minor violation of the lease.
   a. True
   b. False

4. A resident whose assistance has been terminated may never have their assistance reinstated.
   a. True
   b. False

5. From the date a termination of assistance notice is served, the resident has how many days to request a meeting with the owner?
   a. 60
   b. 30
   c. 14
   d. 10
   e. None of the above

6. All overpayments of assistance that were caused by owner error or owner failure to follow HUD procedures, must be repaid to HUD by the property.
   a. True
   b. False

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7. Any amount of HAP overpayment must be repaid to HUD no matter if the resident or the owner was at fault.
   a. True
   b. False

8. Owners may adopt a policy in the TSP to screen for criminal background and sex offender registration every year at annual recertification.
   a. True
   b. False

9. Owners may apply a resident's URP to late rent or damage charges.
   a. True
   b. False

10. Owners may retain a portion of a repayment:
    a. If the repayment was caused by the resident
    b. If the repayment was caused by the owner
    c. If the repayment was late

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Notes

CHAPTER 8 Enterprise Income Verification (EIV)

Section 1 Learning Outcomes

LEARNING OUTCOMES

Upon completion of this chapter, you should be able to:

- Recognize the basic requirements of EIV system use
- Identify the types of resident data available in the EIV system and the sources from which the data is derived
- Recall the policy and procedures that owners must establish governing the use of EIV
- Recognize the various reports available in EIV and apply them in effective EIV system use

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Section 2 Overview

HUD Handbook 4350.3, Chapter 9, Section 1

Enterprise Income Verification (EIV) is a module located in HUD's Web Access Security System (WASS). WASS provides secure access to HUD systems for internal HUD users and trusted external users. Other WASS modules include the PIH Information Center (PIC) and Tenant Rental Assistance Certification System (TRACS). EIV is a web-based system that provides owners with employment, unemployment, and Social Security benefit information for residents that participate in HUD-assisted housing programs through Multifamily housing, public housing, and the tenant-based and project-based voucher programs.

Owners of Multifamily housing projects must use EIV in its entirety and must develop policies and procedures for staff to follow when using EIV reports. HUD mandates that owners use EIV as level one verification of income information during annual recertifications for each resident. Owners may, but are not required to, use EIV as third-party verification during interims. Specific EIV reports are used at each recertification to verify income and reduce errors in subsidy payments. EIV income reports are not available for applicants.

Use of the EIV system is mandatory in all of the following programs:

- Section 221(d)(3) Below-Market Interest Rate (Section 221(d)(3) BMIR)
- Section 8 Rent Supplement
- Rental Assistance Payment (RAP) 236
- Section 8 Project-Based Assistance
- New Construction State Agency Financed (generally are new construction or substantial rehabilitation projects)
- Substantial Rehabilitation
- Section 202 Projects with Section 8 Assistance (Section 202/8)

- Rural Housing Section 515 Projects with Section 8 Assistance (RHS Section 515/8)
- Section 202 with 162 Assistance -Project Assistance Contracts (Section 202 PACs)
- Section 202 with Project Rental Assistance Contracts (Section 202 PRACs)
- Section 202 without Assistance (income limits only)
- Section 811 with Project Rental Assistance Contracts (Section 811 PRACs)

RAD PBRA: EIV

The EIV system for Multifamily is different than the EIV system for PIH programs. Owners of properties converting under RAD must remove PIH EIV access effective on the execution date of the HAP contract by contacting the EIV Coordinator at the HUD Regional Center/Program Center. Owners must obtain access to the Multifamily EIV system within 90 days from the date the HAP contract is signed.

Multifamily Help Desk is available effective 9/3/19.

Multifamily EIV O/As may submit requests for assistance by email at MF_EIV@hud.gov or by phone at:

4470-691-0115; or

800-767-7588; or

888-297-8689 and selecting Option 5

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WHY EIV?

In 2001, the Office of Management and Budget (OMB) released the President's Management Agenda, which included taking action to reduce erroneous payments as a government-wide priority. Each government agency would now be required to track and measure improper payments made to anyone by that agency. Each agency was also required to develop corrective actions to address improper payments, and to track the results of those actions in reports to the OMB every three years. Tenant-based and project-based assistance represent 61 percent of HUD's entire budget. In 2001, it was estimated that over $3.2 billion in improper payments were made by HUD in public housing, tenant-based housing, and project-based housing programs.

From 2001 to 2005, there was an estimated 60 percent reduction in improper payments from these HUD programs due to EIV. EIV became mandatory for use in Multifamily housing on January 1, 2010. There are financial and other penalties for not using EIV in its entirety, to be discussed later in this chapter.

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Exhibit 9-5

4350.3 REV-1

USE OF EIV REPORTS

REPORT	*UPDATE		REPORT USE	FILE DOCUMENTATION	RETENTION
	TSP	P&P			
Summary Report Summary of household information from the current, active certification in the TRACS file at the time of the income match. Provides Identity Verification Status by identifying tenants whose personal identifiers: • Match the SSA database - "Verified" • Does not match the SSA database – "Failed" • Have not been sent by HUD to SSA for validation or have not yet been matched by SSA for validation – "Not Verified" • SSA's records indicate the person is deceased – "Deceased" **See Paragraph 9-12.A**		X	Must be used at recertification (annual and interim) • To validate a tenant's SSN • To review and resolve discrepant or invalid personal identifiers of tenants with a "failed" or "deceased" status **Note**: Nothing has to be done at the time of recertification with those tenants with an Identity Verification Status of "Not Verified". However, the Failed SSA Identity Test report must be checked monthly as a change in the Identity Verification Status may occur.	Summary Report(s) as verification of the SSN for all household members whose Identity Verification Status is "Verified". Correspondence or documentation received to resolve a tenant's "Failed" or "Deceased" status. Documentation for household members identified as exempt from disclosing and providing verification of a SSN: • Tenants who were 62 years of age or older as of January 31, 2010, and whose initial determination of eligibility was begun before January 31, 2010; and • Individuals who do not contend eligible immigration status If the Summary Report in the tenant file shows an Identity Verification Status of "Verified" for all household members required to have a SSN, the Owner does not have to continue to print out the Summary Report at recertification unless there is a change in household composition or in a household member's identity verification status	**Tenant file** Summary Report and supporting documentation must be retained in the tenant's file for term of tenancy plus 3 years. **Note:** O/As may remove and destroy copies of verification documentation received from the tenant to verify their SSN once the Identity Verification Status shows "Verified". O/As are encouraged to minimize the number of tenant records that contain documents that display the full nine-digit SSN.

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USE OF EIV REPORTS					
REPORT	***UPDATE**		**O/A REPORT USE**	**FILE DOCUMENTATION**	**RETENTION**
	TSP	**P&P**			
INCOME REPORTS **Note: A current, signed form HUD-9887 must be on file to view and/or use the income reports.** **A current, signed form HUD-9887-A must be on file to obtain written third party verification of income.**					
Income Report Provides employment and income reported by HHS and SSA for each household member that passes the SSA identity test. Identifies tenants who: • May not have reported complete and accurate income information • May be receiving multiple subsidies **See Paragraph 9-12.B**		X	Mandatory use at Recertification - Annual and Interim May be used at other times as indicated in O/A's policies and procedures. • Serves as third party verification of employment and income. New Admissions: • Review new admissions within 90 days after the move-in information is transmitted to TRACS to confirm/validate the income reported by the household. Resolve discrepancies in reported income with the family within 30 days of the EIV Income Report date.	No Dispute of EIV Information: • EIV Income Report • Current, acceptable tenant provided documents • Third party verification from the source, if necessary Disputed EIV Information: • EIV Income Report • Third party verification from the source for the disputed information Tenant-reported income not verified through the EIV system: • EIV Income Report • Current, acceptable tenant-provided documents, and/or • Third party verification from the source Any correspondence with/from tenant relating to disputes of the employment or income reported in EIV. Form HUD-50059(s)	**Tenant File** Retain copy of Income Report and supporting documentation with applicable form HUD-50059 for term of tenancy plus 3 years. **Note:** The O/A must make copies of any tenant provided documents and return the originals to the tenant.

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USE OF EIV REPORTS					
REPORT	***UPDATE**		**O/A REPORT USE**	**FILE DOCUMENTATION**	**RETENTION**
	TSP	**P&P**			
INCOME REPORTS Cont'd. **Note: A current, signed form HUD-9887 must be on file to view and/or use the income reports.** **A current, signed form HUD-9887-A must be on file to obtain written third party verification of income.**					
Income Discrepancy Report Identifies households where there is a difference of $2,400 or more in the wage, unemployment and SSA benefit information reported in EIV and wage, unemployment and SSA benefit information reported in TRACS for the period of income used for discrepancy analysis. The report serves as a tool to alert O/As that there may be a discrepancy in the income reported by the tenant during the period of income used for the discrepancy analysis. **See Paragraph 9-12.C**		X	Mandatory use at Recertification - Annual and Interim Report may be used at other times as indicated in O/A's policies and procedures. **Must print the report at the same time the Income Report is printed.** Discrepancies must be reviewed and resolved at the time of recertification or within 30 days of the EIV Income Report date. Review data in TRACS to make sure it agrees with the form HUD-50059 data. Correct any discrepant data in the TRACS database.	All correspondence to/from the tenant regarding the income discrepancy. Documentation received to resolve the discrepancy, including written third party verification of income, if applicable. The file must be documented regardless of whether the O/A determines the discrepancy to be valid or invalid. Corrected form HUD-50059(s), if applicable. Repayment Agreement, if applicable.	**Tenant file** Retain copy of Income Discrepancy Report and any documentation related to the resolution of the discrepancy, including any repayment agreements for term of tenancy plus 3 years.

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USE OF EIV REPORTS					
REPORT	***UPDATE**		**O/A REPORT USE**	**FILE DOCUMENTATION**	**RETENTION**
	TSP	**P&P**			
INCOME REPORTS Cont'd. **Note: A current, signed form HUD-9887 must be on file to view and/or use the income reports.** **A current, signed form HUD-9887-A must be on file to obtain written third party verification of income.**					
No Income Reported on 50059		X	As identified in O/As policies and procedures.	Correspondence/documents received for re-verification of zero income tenants	**Tenant File** Any correspondence/documents received when re-verifying zero income tenants.
No Income Reported by HHS or SSA Identifies tenants who passed the SSA identity test but no income was reported by HHS or SSA. This does not mean that the tenant does not have any income. O/A must obtain written third party verification of any income reported by the tenant. Recommend "zero" income tenants be required to disclose and O/A re-verify income at least quarterly. These are tenants who report no income at all. **See Paragraph 9-12.D.1.a**		X	As identified in O/A's policies and procedures. Interview tenants, asking the right questions to provide the tenant the opportunity to disclose any income.	Third party verification from income sources of other income reported by tenant, if applicable. Correspondence/documents received for re-verification of zero income tenants. .	**Tenant file** Any documentation or third party verifications for other income reported by the tenant for term of tenancy plus 3 years.

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USE OF EIV REPORTS

REPORT	*UPDATE		O/A REPORT USE	FILE DOCUMENTATION	RETENTION
	TSP	P&P			
INCOME REPORTS Cont'd. **Note: A current, signed form HUD-9887 must be on file to view and/or use the income reports.** **A current, signed form HUD-9887-A must be on file to obtain written third party verification of income.**					
New Hires Report Identifies tenants who have new employment within the last 6 months. Report is updated monthly. **See Paragraph 9-12.D.1.b**		X	At least quarterly Contact tenant regarding new employment Confirm new employment with tenant. Request tenant provided documents to support current income and/or third party verification from employer, as applicable. Process Interim Recertification to include new income, if applicable.	New Hires Report with notation of action(s) taken. No Dispute of EIV Information: • EIV Income Report • Current, acceptable tenant provided documents • Third party verification from the source, if necessary. Disputed EIV Information: • EIV Income Report • Third party verification from the source for disputed information Any correspondence with/from tenant relating to new employment and/or disputes of the employment or income reported in EIV. Form HUD-50059(s) .	**Master file** Retain New Hires Summary Report in a master "New Hires Report" file for 3 years. **Tenant file** Retain New Hires Detail Report for the tenant along with any correspondence with tenant, third party verifications, form HUD-50059(s), etc., .for term of tenancy plus 3 years.

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USE OF EIV REPORTS

REPORT	*UPDATE		O/A REPORT USE	FILE DOCUMENTATION	RETENTION
	TSP	P&P			
VERIFICATION REPORTS **Note: A form HUD-9887 is not required to view and/or use verification reports.**					
Existing Tenant Search Identifies applicants who may be receiving assistance at another Multifamily or PIH location. **See Paragraph 9-13.A**	X		At the time of processing an applicant for admission Search each applicant and applicant household member to see if receiving assistance at another location. Discuss with tenant regarding circumstances relative to being assisted at another Multifamily or PIH property. Follow up with respective PHA or O/A to confirm the individual's program participation status before admission. Coordinate move-in/out dates with PHA or O/A.	Search results for each member of the household. Results of any contact with applicant must be recorded on and/or with the search results for affected household member. Results of any contact with PHA, owner, management agent where applicant is reported as receiving assistance must be recorded on and/or with the search results for affected household member.	**Application file** If not admitted – retain search results and any supporting documentation with the application for 3 years. **Tenant file** If admitted – retain search results and any supporting documentation with the application for term of tenancy plus 3 years.

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USE OF EIV REPORTS					
REPORT	***UPDATE**		**O/A REPORT USE**	**FILE DOCUMENTATION**	**RETENTION**
	TSP	**P&P**			
VERIFICATION REPORTS Cont'd. **Note: A form HUD-9887 is not required to view and/or use verification reports.**					
Multiple Subsidy Report Identifies tenants who may be receiving rental assistance at more than one location. **See Paragraph 9-13.B**		X	At least quarterly Must search both queries: • Search within MF • Search within PIH Provide tenant opportunity to explain any circumstances relative to his/her being assisted at another location. Follow up with respective PHA or O/A, if necessary, to confirm tenant is being assisted at the other location. Depending on the results, may need to take action to terminate the assistance or tenancy and repay subsidy to HUD.	Search results Documentation supporting any contacts made or information obtained to determine if household and/or household member is receiving multiple subsidies. Documentation to support any action taken if household and/or household member is receiving multiple subsidies. **Note:** If a tenant's multiple subsidies were discussed and resolved at the time of recertification, this must be noted on the printed report and no further action is required.	**Master file** Retain Multiple Subsidy Summary Report and supporting documentation in a master "Multiple Subsidy Report" file for 3 years. **Tenant file** Retain a copy of the Multiple Subsidy Detail Report for the tenant along with any documentation of action taken for a household member for term of tenancy plus 3 years.

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USE OF EIV REPORTS					
REPORT	***UPDATE**		**O/A REPORT USE**	**FILE DOCUMENTATION**	**RETENTION**
	TSP	**P&P**			
VERIFICATION REPORTS Cont'd. **Note: A form HUD-9887 is not required to view and/or use verification reports.**					
Failed EIV Pre-screening Report Identifies tenants who have missing or invalid personal identifiers (last name, date of birth, SSN) in TRACS. These tenants will not be sent to SSA from EIV for the SSA identity test. Identifies tenants who need to disclose a SSN, e.g., replace TRACS generated ID number. **See Paragraph 9-13.C.1**		X	Monthly Follow up with tenants identified on the report where discrepant personal identifiers were not corrected at the time of recertification. Check accuracy of data entry, e.g., numbers not transposed in SSN. Contact tenant and confirm to verify discrepant personal identifiers Correct TRACS data within 30 days of the date of the report.	Failed EIV Pre-screening Report documented with action taken to resolve invalid or discrepant personal identifiers. **Note:** This report will include those persons who are exempt from the SSN disclosure and verification requirements. In these instances the O/A will note on the copy of the report retained in the "Failed EIV Pre-Screening Report" master file that tenant(s) is exempt from SSN requirements. **Note:** If a tenant's information was corrected at the time of recertification but the EIV data has not yet been updated, this must be noted on the printed report and no further action is required.	**Master file** Retain copy of report in a master "Failed EIV Pre-screening Report" file for 3 years. **Tenant file** Documentation to verify discrepant personal identifiers for term of tenancy plus 3 years.
Failed Verification Report (Failed SSA Identity Test) Identifies tenants whose personal identifiers (last name, date of birth, SSN) do not match the SSA database. **See Paragraph 9-13.C.2**		X	Monthly Follow up with tenants identified on the report where discrepant personal identifiers were not corrected at the time of recertification. Check accuracy of data entry, e.g., numbers not transposed in SSN. Contact tenant and confirm to verify discrepant personal identifiers. Correct TRACS data within 30 days of the date of the report.	Failed Verification Report (Failed SSA Identity Test) report documented with action taken to resolve invalid or discrepant personal identifiers **Note:** If a tenant's information was corrected at the time of recertification but the EIV data has not yet been updated, this must be noted on the printed report and no further action is required.	**Master file** Retain copy of report in a mater "Failed EIV SSA Identity Test" file for 3 years. **Tenant file** Documentation to verify discrepant personal identifiers for term of tenancy plus 3 years. .

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4350.3 REV-1

USE OF EIV REPORTS

REPORT	*UPDATE		O/A REPORT USE	FILE DOCUMENTATION	RETENTION
	TSP	P&P			
VERIFICATION REPORTS Cont'd. **Note: A form HUD-9887 is not required to view and/or use verification reports.**					
Deceased Tenants Report Identifies tenants reported by SSA as being deceased. **See Paragraph 9-13.D**		X	At least quarterly Confirm, in writing, with head of household, next of kin or contact person or entity provided by the tenant to determine whether or not the person is deceased. If deceased, within 30 days from date of report: • Update family composition, and, if applicable, income and allowance, on the form HUD-50059. See Paragraph 7-13D of Handbook 4350.3 REV-1 for effective date. • Single member of a household, process move-out using form HUD-50059-A. Effective date retroactive to earlier of 14 days after date of death or date unit vacated. **Note:** Overpayment of subsidy must be returned to HUD. Any discrepant data in TRACS must be updated within 30 days from the date of the report. Encourage tenant to contact SSA if SSA's data is incorrect.	Deceased Tenants Report Documentation obtained to resolve discrepancy. Form HUD-50059 with change of family composition. Form HUD-50059-A for move-out. **Note:** If action was taken to remove the deceased tenant from the household or to terminate tenancy of a deceased single member of a household at the time of recertification but the EIV data has not yet been updated, this must be noted on the printed report and no further action is required.	**Master file** Retain copy of report in a master "Deceased Tenants Report" file for 3 years. **Tenant file** Form HUD-50059 and/or form HUD-50059-A plus any other documentation received for a particular tenant must be retained for term of tenancy plus 3 years.

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Section 3 Data Sources

HUD Handbook 4350.3, Chapter 9, Section 2

Resident data in EIV is derived from current information submitted to TRACS through the form HUD-50059. All employment and income information comes from the Department of Health and Human Services (HHS), National Directory of New Hires (NDNH), and the Social Security Administration (SSA).

HUD cannot correct data in the EIV system; only the originator of the data can correct information. If the 50059 is incorrect due to inaccuracies in the owner's software, the owner must correct the data in their software and transmit the corrected 50059 to TRACS. If the resident disputes employment and wage information, unemployment benefit information, or social security benefit information, the resident should contact the employer, local state workforce agency, or Social Security Administration directly and provide the owner a copy of the written correspondence to maintain in the resident file. In the interim, the owner must use resident-provided documentation to verify resident income.

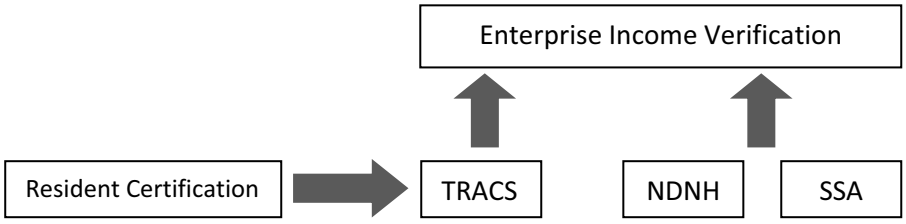
An EIV pre-screening test is conducted for each resident to verify each resident's personal identifiers (last name, DOB, and SSN) before the information is sent to the SSA for the identity matching process. Information for residents who do not pass the pre-screening test is not sent to the SSA, and the SSA matching process cannot be completed until personal identifiers are corrected in the TRACS system. Likewise, owners are unable to receive any resident information from EIV until this information is corrected.

It is important that all personal identifiers on the 50059 are correct and able to be matched to the SSA database. Personal identifiers are located on page 2, Section C the 50059. The fields that must be correct for SSA matching are:

- Field 34 (Last Name)
- Field 41 (Birth Date)
- Field 44 (ID Code (SSN))

The SSA match process takes place at the beginning of each month. As part of the process, all SSA data is loaded into the EIV system, and all residents are matched between the SSA and EIV system. This ensures that all personal identifiers for each resident are correct and that SSA and NDNH are able to report the correct information to the EIV system.

Matching is done on a quarterly basis for the entire resident population, however, all new records or records that have been significantly updated are matched in the next monthly cycle.



Residents must pass the SSA identity test and be matched between the SSA and EIV before the SSA or the NDNH can report income information to the EIV system.

The NDNH reports all new hires, quarterly wages for federal and non-federal employees, and quarterly unemployment compensation to the EIV system. There are two NDNH matches performed on a monthly basis:

- Matching the entire eligible resident base with the new hires (W4) data
- Matching newly admitted residents with wage and unemployment benefit data

A match of the entire resident data base with the new hires (W4) wage and unemployment benefit data is completed on a quarterly basis.

The SSA reports social security benefits, supplemental security income (SSI), dual entitlement benefits, Medicare premium information, and disability status to the EIV system. Note: In some cases, dual entitlement benefits may not be reflected in EIV. In these cases, third party verification is required.

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Section 4 General Administration

HUD Handbook 4350.3, Chapter 9, Section 3

Various EIV reports are produced and reviewed by on-site staff as part of:

- Eligibility determinations
- Annual recertifications
- Discrepancy analysis
- Compliance monitoring

Existing residents and applicants must be notified of the use of EIV through HUD's EIV & You brochure. Existing residents should have been provided the brochure no later than January 1, 2010, and must be offered the brochure again at least annually as part of the recertification process. Applicants must be provided the EIV & You brochure with their initial application for housing at the owner's property.

EIV Master File

Each property should keep two EIV files, binders or books; one for permanent records and one for master reports. This ensures that EIV information is kept in one place, is easily secured, and is easily audited. This also ensures that there is clear evidence of annual security awareness training and that reports are being pulled according to schedule, stored properly, and discrepancies are investigated and corrected.

Suggested items to be kept in the permanent records file include:

- EIV Use and Security Policy
- Original EIV authorization forms for users and coordinator
- Security awareness questionnaire
- Annual security awareness training certificate
- Signed Rules of Behavior for non-users
- Expired or terminated EIV coordinator and user documents
- Any other training or EIV use information
- Log of when each monthly and quarterly report was pulled
- Log of income discrepancies
- EIV destruction logs

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The EIV master file is a binder, folder, or book that is used to track all HUD-mandated reports that are run monthly or quarterly. The required reports to be included in the file are:

- Identity Verification Reports (failed pre-screening/failed verification)
- Multiple Subsidy Summary
- New Hires Summary
- Deceased Tenant Report

These master reports must be maintained for three years from the date of the report and then must destroyed in accordance with the methods outlined in the owner's EIV security policy.

AUTHORIZED USERS

All EIV users must sign and adhere to the EIV Rules Of Behavior (ROB). All signed ROBs must be kept on file by the signing staff member and by the owner's TRACS/EIV security officer. Staff members who do not have access to the EIV system but view or use EIV data or reports in order to perform their job functions, as well as owner-hired independent public auditors (IPAs), must also sign and adhere to the ROB.

Only those whose job duties specifically relate to EIV are granted access to the system and related documents. There are two different types of roles in the system: users and coordinators. EIV users and coordinators have different responsibilities and system access levels.

Coordinators:

- Assign access roles and contracts to users
- Approve user recertifications in the system on a biannual basis
- Must obtain a letter of approval from the owner upon initial certification
- Must be recertified on an annual basis
- Sign a Coordinator Access Authorization Form (CAAF) annually within 30 days of expiration (electronically after initial approval)
- Sign an EIV Rules of Behavior form annually

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- Must complete the online Cyber Awareness Challenge for Department of Defense and Federal Personnel training program and print and maintain the certificate of completion

Users:

- Must complete online security training annually.
- Must complete the online Cyber Awareness Challenge for Department of Defense and Federal Personnel training program and print and maintain the certificate of completion.
  - It is best practice for the original certificate of completion to be maintained by the user, with a copy kept in the master file, and a copy sent to the coordinator for recertification purposes.
- Are provided with appropriate approval and authorization from the coordinator who determines what level of access is needed based on their job duties and how they use the system and reports
  - The level of access granted determines the functionalities, features, and amounts of data that a specified user can see.
- Sign a User Access Authorization (UAF) semi-annually within 30 days of expiration (electronically after initial approval)
- Sign an EIV Rules of Behavior form annually

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EIV Security Policy

Owners are required to establish an EIV security policy and procedure governing the use of EIV. All reports must be produced, secured, and maintained in accordance with this policy and procedure. The policy and procedure must include the following topics:

- Authorized use of EIV
- How to handle security breaches
- Destruction of EIV data
- Discretionary use of EIV reports (e.g., Income Report, zero income reports, New Hires Report, etc.) as required under HOTMA

Other suggested topics include:

- When each report will be pulled
- How EIV reports will be reviewed and used for resident compliance
- How discrepancies will be resolved
- Owner's policy for applying the annual COLA
- Owner's policy for re-verification of zero-income residents
- Process for resident meetings to discuss discrepancies
- Procedures for making corrections to completed certifications

The owner's EIV use policy must include language to ensure that:

- Security measures are in place to limit access
- Procedures are in place to review all EIV User IDs periodically
- Access is terminated within 30 days for users who no longer need access
- Procedures are in place for improper disclosure and to report unauthorized access or security breaches
- Employment and income information is used correctly
- EIV reports are used on schedule

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PENALTIES FOR FAILURE TO COMPLY

Contract Administrators and HUD will use EIV to monitor the owner's compliance with access and use of the EIV system. Owners who don't have access to or are not using the EIV system in its entirety:

- Will receive an MOR finding if the violation was discovered during an MOR
- Will incur a penalty of five percent decrease in the voucher payment for the month following the date the violation was found and each subsequent voucher payment until the violation is cured

The owner will have 30 days to cure the violation by obtaining access to and/or using the EIV system. The owner is required to make an adjustment to the next scheduled voucher to collect the funds previously returned to HUD even if the owner takes longer than 30 days to cure the finding. If the violation is not cured during the 30-day period, both the owner and the management agent, if applicable, will be flagged in HUD's Active Partners Performance System (APPS). Once the violation is cured, the flag will be removed.

When there is a change in ownership or management at a property, the new owner or management agent must obtain access to and begin using the EIV system within 90 days from the date the owner takes possession of the property or the effective date of the management agreement with the owner. Owners and/or management agents who fail to obtain access and begin using the EIV system within this timeframe may be subject to the penalties described above.

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Section 5 Using EIV Reports

EIV Report Schedule

HUD Handbook 4350.3, Chapter 9, Section 3

Existing Tenant Search	When processing an applicant family for admission (Before MI/After 9887/9887A has been signed)
Failed EIV Pre-screening/Failed Verification Report (Failed SSA Identity Test)/Identity Verification Report	Monthly
Deceased Tenants Report	At least quarterly
New Hires Report	At AR, except when Safe Harbor is used, and if O/A policy requires an IR for increases after an IR decrease, must review quarterly after decrease
Multiple Subsidy Report	At least quarterly
Income Report	90 days after MI is submitted to TRACS, and at annual, except when Safe Harbor is used
Summary Report	At annual recertifications except when Safe Harbor is used
Income Discrepancy Report	At annual recertifications except when Safe Harbor is used
No Income Reported on the 50059 & No Income Reported by HHS or SSA	Per owner's policies and procedures

Existing Tenant Search

The only EIV report that provides information on applicants is the Existing Tenant Search. This report allows the owner to determine whether any household member is currently being assisted by any PIH or multifamily housing program. Owners must run the Existing Tenant Search before the final eligibility determination. Information about how this report will be used during the screening process must be described in the Tenant Selection Plan (TSP).

The application must ask whether anyone in the household is currently receiving HUD assistance Duplicative housing assistance is not allowed, even for one day. Families currently receiving housing assistance through a HUD program are not prohibited from applying for assistance to other HUD properties or programs, however, applicants must first move out of their current assisted unit or forfeit their tenant-based voucher before assistance may begin in the new unit.

The Existing Tenant Search gives the owner the ability to coordinate move-out and move-in dates with the resident and the owner of other PHA or HUD-assisted properties. When a family is identified on the report, the owner should follow up with the PHA or other property to confirm the individual's program status prior to admitting them to the program. In addition, applicants should be notified that assistance will not be provided in the new unit until the day after assistance stops in the residence currently identified in EIV in order to prevent overlapping subsidy.

If the applicant or any member of the applicant household fails to fully and accurately disclose receipt of HUD assistance or rental history on the application, the owner may deny the applicant based on misrepresentation of information provided the property's TSP allows for such denials.

FAILED EIV PRE-SCREENING REPORT

The Failed EIV Pre-Screening Report must be generated and reviewed by owners on a monthly basis, as well as during all annual recertifications. Owners must address all discrepancies within 30 days of the date of the report. The failed pre-screening report indicates that SSA personal identifiers provided on the 50059 failed some level of the matching process. The most common reasons the failed pre-screening report will be returned are:

- Owner data entry error on the 50059, such as incorrect SSN, DOB, or last name
- The applicant has provided the owner with incorrect personal identifier information
- All discrepancies must be investigated and corrected, and documented in the file

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FAILED VERIFICATION REPORTS

The Failed Verification Report must also be generated monthly. It is used to identify household members who failed the SSA identity match due to invalid personal identifiers such as incorrect social security number, incorrect date of birth, or incorrect last name.

In most cases, Failed Verification Reports occur when there have been data entry errors in the owner's software. If the owner discovers a data entry error in the resident's file, the incorrect 50059 must be corrected within 30 days. The corrected certification must be signed by all adult household members, and the owner must then transmit the corrected 50059 to TRACS. If the reason for the failed pre-screening or verification report cannot be identified and corrected after a file review, the owner must follow up with the resident.

If the owner discovers that the resident purposefully provided a fraudulent or inaccurate social security number, the owner is required to attempt to recover all subsidy paid in error. The owner must create and/or correct the appropriate certifications and request all assistance paid in error is returned to HUD in one lump sum or through a repayment agreement.

If the resident claims that the information provided by EIV is incorrect, the owner must obtain verification and documentation to support the resident's personal identifiers and the accuracy of the 50059 and TRACS information. The owner should encourage the resident to contact the SSA to correct any inaccurate data in their databases.

Because social security number identification discrepancies impact program eligibility, the owner should maintain detailed information concerning discrepancy investigation and resolution. This information should be maintained in the resident file with the move-in information in order to ensure that the documentation is not archived anytime resident files are purged. Unresolved discrepancies must also be documented in the EIV master file.

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SUMMARY REPORT

The EIV Summary Report is a summary of household information drawn from the current certification in TRACS at the time of the income match between EIV and the SSA database. It provides the status of residents' identity verification by identifying those residents whose personal identifiers:

- Match the SSA data base (verified)
- Do not match the SSA database (failed)
- Have not been sent to the SSA for verification or have not been matched by the SSA (not verified)

EIV summary reports must be run at all annual recertifications and must be retained in the resident file.

If the status of all household members is verified, the owner is not required to print this report again unless there is a change in the household composition or in a household member's identity verification status.

The summary report is also a tool to review and resolve the status of any household members with a failed or deceased status. If the verification status for a household member is failed or deceased, the owner must review and resolve discrepancies per the methods listed under the owner's failed pre-screening policy and in accordance with HUD Handbook 4350.3.

DECEASED TENANTS REPORT

The Deceased Tenants Report identifies residents who are currently listed in TRACS as existing/active residents but who have been identified by the SSA as deceased. This report must be reviewed quarterly. The owner must confirm in writing with the head of household, next of kin, or emergency contact person whether the resident has passed away. If the person is deceased, the owner must update the household composition and conduct an interim recertification. If the deceased individual was the sole member of the household, the owner must process a move out with an effective date of either 14 days after the resident's death or the date the unit was vacated, whichever is earlier.

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All discrepancies must be corrected in TRACS within 30 days of the date of the report, and a copy of the report must be kept in the EIV master file. Documentation of any action taken to resolve the discrepancy must also be retained in the resident file. If the owner verifies that the resident is not deceased, the owner should encourage the resident to contact the SSA to resolve the discrepancy.

The deceased tenants report is updated each weekend. Any changes made by the SSA or owner will not be immediately reflected in the report.

> ***Example**: Mr. Paterson was listed on the deceased tenants report dated April 18 with a deceased date of March 18. On April 19, the owner confirmed in writing with Mr. Paterson that he was alive and advised Mr. Paterson to visit his local SSA office to have the error corrected.*
>
> *The SSA corrected the error on April 19. When HUD conducted computer matching with SSA in the second week of May, HUD obtained new SSA data that indicated Mr. Paterson was not deceased. The deceased tenants report was updated the next weekend. When the owner accessed the deceased tenants report on May 15th, Mr. Paterson was no longer listed on the report.*

NEW HIRES REPORT

The New Hires Report provides employment information for residents who may have started new jobs within the last six months. The information in this report is updated monthly. Because most employers report information on new hires to their state within 30 days of the hire date, an owner may know within 60 days if a resident has started a new job. The New Hires Report must be generated The New Hires Report must be generated at annual, except when Safe Harbor is used. If O/A policy requires an interim for increases after an interim decrease the report must be reviewed quarterly after the decrease. Even if the report returns no results, it must be printed and retained in the EIV master file for each property.

If a resident is listed on the New Hires Report and has not reported new employment to the owner in accordance with HUD requirements, the owner must not deny, suspend, or reduce any benefits until the owner has taken appropriate steps to independently third-party verify the information.

The owner should verify:

- The amount of the wages, other earnings or income, or unemployment compensation involved
- Whether the resident actually has or had access to such wages, earnings or income, or benefits for their own use
- The period or periods in which the resident actually received such wages, earnings or income, or benefits

If there is undisclosed new employment, the owner must investigate whether the resident violated reporting requirements. In some cases, the owner is not required to contact residents identified on the report. For example, residents are not required to report a new job when the cumulative income of the household increases by less than $200 per month ($2400 per year) or if household income decreases.

If a resident has failed to report as required, however, the owner must contact the resident. The resident must confirm whether the employment information in EIV is correct. If the resident confirms that the information is correct, the owner must request resident-provided verification of the new employment or third party-verification from the employer. Based on the information provided, an interim recertification must be conducted, and the resident must repay any assistance paid in error.

In addition to retaining a copy of the New Hires Report in the EIV master file, owners must note the outcome of contact with residents. All correspondence with the resident, third-party verifications, etc. must be retained in the resident file as well.

If the resident disputes the information in the EIV system, the owner must obtain third-party verification from the employer. There can be several valid causes for errors that would not require any action by the owner:

- Human error
- System errors in one of the databases
- Identity theft

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There may be cases where attempts to verify the EIV data are unsuccessful. In these cases, the resident must certify that the employer and employment information displayed in EIV is invalid and has been wrongly attributed to the resident's personal identifiers.

The owner should advise the resident to contact the third-party income source(s), and if unsuccessful, contact the state workforce agency (SWA) to have that employer or agency remove the invalid income information from their records. In the interim, the owner must use resident-provided documentation to verify resident income.

MULTIPLE SUBSIDY REPORT

The Multiple Subsidy Report identifies households or household members that may be receiving multiple HUD subsidies and must be generated at least quarterly. If any household member received assistance at another HUD-assisted property while receiving assistance at the owner's property, the household will be required to reimburse HUD for assistance paid in error. This is considered a material lease violation and may result in penalties up to and including eviction and pursuit of fraud charges.

There are some situations where overlapping assistance is permissible. A minor may reside in two different HUD-assisted units if two parents live in separate units and share 50 percent custody of the minor. While the child may reside in both households, only one household is eligible to claim the dependent deduction for the child. In addition, a resident receiving housing assistance that does not include subsidy, such as the case in 236 properties, may also benefit from HUD's tenant-based voucher program. While these will likely appear on the Multiple Subsidy Report, the discrepancy is easily resolved.

If a resident appears on the multiple subsidy report and the resident seems to be receiving dual subsidy, the owner must meet with the resident and give the resident an opportunity to explain the matter. The owner must also follow up with the PHA or owner where the resident has been reported as receiving assistance.

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The owner must distinguish whether the violation was due to resident error or fraud and determine the extent of the violation and appropriate action, including termination of assistance, termination of tenancy, and/or requiring the resident to return assistance paid in error after the verification is complete.

Owners must maintain detailed information about multiple subsidy discrepancy investigations and resolutions. This information must be maintained in the resident file. Unresolved discrepancies must also be documented in the EIV master file.

INCOME REPORTS

Except when using a Safe Harbor income determination, there are three income reports that owners must use at all annual recertifications (they are not required at interim recertifications):

- The Summary Report
- The Income Report
- The Income Discrepancy Report

If a discrepancy is noted, the following documentation is required to be part of the resident file:

- If the resident does not dispute the EIV information
  - EIV income report, resident-provided documentation, and third-party verification from the source (if necessary)
- If the resident disputes the EIV information
  - EIV income report and third-party verification from the source

SUMMARY REPORT

The Summary Report is a summary of information taken from the current, active certifications that the owner has transmitted in the TRACS file at the time of the income match, as well as the identity verification status for each household member. While the report is required at all annual recertifications, the owner may use the report at other intervals, as described in the owner's written EIV policies and procedures.

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INCOME REPORT

Except when using a Safe Harbor income determination, the EIV Income Report must be used to verify employment information for each resident at annual recertification. The owner may, but is not required to, use EIV as a third-party source during interim recertifications. The report must be pulled within 120 days of the effective date of the annual recertification in order to be considered current.

For residents, it may be used in combination with self-certification to calculate income as long as the family agrees with the information in EIV. The family must be provided with the information from EIV.

For new move-ins, the owner must:

- Pull and review the Income Report within 90 days of the move-in certification or initial certification being transmitted to the TRACS system
  - This is to confirm the income reported by the household
- Resolve any income discrepancies within 30 days of the income report date
- Retain the Income Report in the resident file with any documentation pertaining to income discrepancies

SOCIAL SECURITY INCOME REPORT

If the resident agrees with the social security benefit information in EIV, the owner must use the EIV printout as third-party verification of social security income and Medicare Part B expenses. No additional verification is required, however, since verification through EIV is considered EIV + self-certification, the resident must sign a self-certification stating the amount in EIV is correct. The report is only available for residents. The owner should use a benefit letter dated within 120 days of the eligibility interview to verify social security income of applicants.

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MEDICARE PART B DEDUCTION

For residents who qualify for medical expenses, the Medicare Part B premium must be used as part of the medical expense deduction only when an "N" is indicated in the "Buy-in" column of the income report. The "N" indicates that the resident is paying the premium amount.

When the Medicare Part B premium is being paid by the state or another entity, there will be a "Y" in the "Buy-in" column with a corresponding "Buy-in Date." In these cases, the Medicare Part B amount must not be used to calculate medical expenses.

When the Medicare Part B premium is being paid by the resident:

Premium		Buy-in	Buy-in Start	Buy-in Stop
Hospital Insurance	$0.00	N	Not Available	Not Available
Supp. Med. Insurance	$110.50	N	Not Available	Not Available

When the Medicare Part B premium is being paid by the state or other entity:

Premium		Buy-in	Buy-in Start	Buy-in Stop
Hospital Insurance	$0.00	N	Not Available	Not Available
Supp. Med. Insurance	$110.50	Y	10/10/09	Not Available

When the state or entity no longer pays the Medicare premium, there will be a buy-in stop date:

Premium		Buy-in	Buy-in Start	Buy-in Stop
Hospital Insurance	$0.00	N	Not Available	Not Available
Supp. Med. Insurance	$110.50	Y	10/10/09	03/01/10

Notice H 08-03; Notice H 09-20

While SSA provides information on Medicare premiums, it does not provide information on additional deductions such as Medicare Part D (prescription drug) premiums, repayment agreement information, or garnishments.

If there is an unexplained difference between the gross benefit and the net payment, the owner should ask the resident to disclose any deductions they may have from their SSA benefits, and when necessary, should request that the resident obtain a current award letter from the SSA to verify these amounts. The owner should determine whether additional verification is necessary.

If the information in EIV does not agree with the amount the resident reports, if the resident disputes the EIV data, or there is no resident data in EIV, the owner must request that the resident obtain a current award setter from the SSA. If the owner finds it necessary to use some other form of verification such as the benefit letter or oral verification, the owner must document this in the resident file and explain why third-party verification could not be used.

Incorporating the Cost of Living Adjustment (COLA) Increase

Notice H 08-03

In years when the SSA applies a cost of living adjustment (COLA) to social security benefits, the COLA is not included in EIV until January. SSA typically announces the COLA annually in October (available at www.socialsecurity.gov). Effective the day after the COLA is announced, O/As are required to factor in the COLA when determining SS and SSI income for all annual and interim recertifications that have not been completed and will be effective January 1 or after for the next year.

NDNH Wage and Unemployment Compensation Information

EIV provides wage and unemployment benefit data received from the National Directory of New Hires (NDNH) for current residents who have been verified in the system. EIV retains NDNH employment and income information for a resident for two years. EIV identifies all adult household members and provides wage and unemployment benefits for all active adults who are at least 18 years of age, have passed the SSA/EIV verification, or are not listed on the 50059 as a live-in aide.

The NDNH wage information provided in EIV can be used to verify a resident's employment, and if the resident confirms that the information contained in EIV is correct, the owner must retain the report as third-party verification of employment and may use that information to determine annual income. Using EIV to calculate employment income requires that the resident sign a self-certification stating the amounts in EIV are correct.

In instances where the owner has reason to reject resident provided documentation, if applicable, or there is no or incomplete employment/income information, or the information in EIV is inconsistent with information provided by the resident, the owner must obtain third-party verification.

If the resident disputes the employment information in EIV, the owner must obtain third-party verification and encourage the resident to directly contact the employer in writing and provide the owner with a copy of all correspondence for the resident's file.

UNEMPLOYMENT INCOME

Unemployment income is typically reported in EIV after unemployment benefits have stopped. Since there is a delay in the reporting period for unemployment, EIV unemployment income information may be used to project annual income. Using EIV to project unemployment income requires the resident sign a self-certification the information in EIV is correct since this is considered EIV + self-certification.

If the resident disputes the unemployment information in EIV, the owner must obtain third-party verification and encourage the resident to directly contact the local state workforce agency (SWA) in writing and provide the owner with a copy of all correspondence for the resident file.

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INCOME DISCREPANCY REPORT

The Income Discrepancy Report identifies residents who may have under-reported or over-reported their income from wages, unemployment, or social security benefits by $2,400 or more annually. Negative numbers on the report represent potential resident under-reporting of income, and a positive number represents potential over-reporting. Income sources such as welfare benefits, child support, and most pensions are not included on the Income Discrepancy Report. Income discrepancy reports must be reviewed monthly until resolved or clarified and at every annual recertification.

Owners must investigate all discrepancies regardless of whether there has been possible under-reporting or over-reporting of income. Owners must resolve all discrepancies at the time of recertification or within 30 days of the date of the report.

Owners should compare the SSA benefits, wage, and unemployment income information reported on the 50059 and third-party verifications (if applicable) with the income information reported in EIV to determine whether there is a valid discrepancy. Income discrepancy reports and detailed information pertaining to the resolution of discrepancies must be kept in the resident file regardless of the discrepancy's validity.

Owners should review the resident file to ensure that a data entry error wasn't the cause of the income discrepancy. If a data entry error is discovered, the effected 50059s must be corrected within 30 days and the corrected/signed 50059s transmitted to TRACS. In cases such as this, data entry errors may affect the assistance paid to the owner on behalf of the resident and the correction may generate an increase or decrease in both the housing assistance payment (HAP) and the resident rent.

If the owner discovers that the correction will cause a rent increase and a HAP decrease, the owner must correct the certification and any subsequent certifications using the original certification effective date. The owner must then provide the resident with a 30-day notice of rent increase. The resident's rent will increase the first of the month after the 30-day notice.

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EXAMPLE: OVERPAYMENT OF RESIDENT RENT

The owner discovers a data entry error on the March 2021 Income Discrepancy Report for Mrs. Hasting's November 1, 2020 annual recertification. Mrs. Hasting's total income is $12,555, but the owner entered her income incorrectly as $15,555. The owner will correct the annual certification, have the resident sign the corrected certification, and provide Mrs. Hasting with a notice of retroactive rent decrease effective on November 1, 2020. Mrs. Hasting overpaid rent from November 1 to February 1 by $85 per month for a total of $310. She will decide if she would like the rent refunded in one lump sum or if she would like a rent credit to be applied to future rent charges. The new higher subsidy amount will most likely be effective on either the April 1, 2021 or the May 1, 2021 voucher depending on the time needed to process the change. The correction will be reflected on the next TRACS submission as an adjustment. In this case, Mrs. Hasting should immediately be notified of her new lower rent amount and informed that she is to start paying the lower amount with the next rent billing. The owner will incur the debt of the difference between the old HAP amount and the new HAP amount, as the new HAP amount will not be received until the next voucher cycle and the resident may not be charged a higher rent amount to make up the difference.

NO INCOME REPORTED ON 50059 AND NO INCOME REPORT BY HHS OR SSA REPORTS

The No Income on 50059 Report provides a list of residents whose identity was verified by the SSA's records but had zero income reported to the TRACS system. The no income reported by HHS or SSA report identifies residents who passed the SSA identity test but no employment or income information was received from the match process with the SSA or HHS.

HUD does not require zero income reviews. Owners must use this report only as described in their policies. The owner is not required to retain copies of this report.

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- For properties in HUD's Office of Multifamily West Region (Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, North Dakota, Oregon, South Dakota, Washington, and Wyoming), HUD issued a memo that nullifies the requirement to review the status of residents reporting zero or nominal (less than $100) income every 90 days. Instead, owners should have a set of written policies and procedures to review the status of residents reporting zero income or nominal income on a regular basis. The new notice, dated April 29, 2019, replaces the previous notice from January 14, 2018.

Incorrect information in the EIV system may be a sign of identity theft. Sometimes someone else may use an individual's SSN, either on purpose or by accident. SSA does not require an individual to report a lost or stolen social security card, and reporting a lost or stolen social security card to SSA will not prevent the misuse of an individual's SSN. A person using another individual's SSN can get other personal information about that individual and apply for credit in that individual's name.

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Section 6 Disclosure and Record Keeping

DISCLOSURE OF EIV DATA

HUD Handbook 4350.3, Paragraph 9-17

EIV information for any adult household member may not be disclosed, displayed, shared, or a copy provided to any other adult household members, or to any other person assisting the resident with the recertification process unless the resident has provided written consent allowing the owner to disclose such information. Residents can provide written consent to service coordinators (only if present at and assisting the resident with the recertification process), translators, family members, guardians, power of attorney, or to the person assisting an elderly or disabled person. Although service coordinators may assist residents with the recertification process, they are not allowed to have access to the resident's file, except during the interview while assisting the resident with their annual recertification. Exhibit 9-4 of HUD Handbook 4350.3 provides a sample form for tenant consent to disclose EIV income information.

Owners may disclose EIV information to certain entities only for official purposes. Owners may disclose information to Contract Administrators and HUD staff for monitoring purposes, independent public auditors (IPAs) when hired by an owner to perform internal audits, OIG investigators, and individuals assisting residents with the recertification process, as explained above. Owners may only disclose hard copies of EIV information to IPAs. IPAs may not transport EIV information in any form, cannot access any EIV income information on portable media, must sign the ROB for non-users, and cannot duplicate or redisclose any EIV income information to any unauthorized user.

Owners may not disclose EIV income information to state officials monitoring the Low Income Housing Tax Credit (LIHTC) program, HOME, or Rural Housing Section 515 program.

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PHYSICAL SAFEGUARDS

The owner must put physical safeguards in place to ensure that EIV data is safe when stored electronically, as well as in hard copy, and when transmitted electronically.

Any EIV data stored electronically must be in a restricted access directory or, if placed on portable media, labeled and encrypted using a NIST-compliant vendor. The National Institute of Standards and Technology (NIST) develops and issues standards, guidelines, and other publications to assist federal agencies in implementing the Federal Information Security Management Act (FISMA) and in managing cost-effective programs to protect their information and information systems. All emails containing EIV data must be encrypted using a NIST-compliant vendor as well. Emails or other electronic communications must not contain the full social security number of any resident. EIV data may not be downloaded to mobile devices.

All individuals who use the EIV system should use a password-protected screensaver and lock their computer any time they leave their workspace. Users should not leave their workspace unattended with EIV data displayed on the screen. HUD also recommends that the EIV system be exited using the "X" at the top of the screen, which removes the user from the WASS system entirely.

Printed EIV data:

- Must not be left unattended
- Should be retrieved as soon as it is printed
    - If possible, a restricted printer, copier, or fax machine should be used
- When faxed, someone should be waiting and ready to retrieve the fax as soon as it is printed.
- When mailed, must be mailed to an office of the owner and cannot be mailed to IPA offices

RECORD KEEPING

HUD Handbook 4350.3, Paragraph 9-14

Each type of EIV report has specific requirements pertaining to document storage.

The income report, the summary report showing identity verification status as "verified," and the Income Discrepancy Report, as well as supporting documentation, must be retained in the resident file for the term of tenancy plus three years.

Any resident provided documentation, or other third-party verification of income received to supplement the SSA or NDNH data must be retained in the resident file for the term of tenancy plus three years.

Results of the existing tenant search must be retained with the application:

a. If the applicant is not admitted, the application and search results must be retained for three years.
b. If the applicant is admitted, the application and search results must be retained in the tenant file for the term of tenancy plus three years.

The master files for the New Hires Report, Identity Verification Reports, Multiple Subsidy Report, and Deceased Tenants Report must be retained for three years.

Once the retention period has expired, owners must dispose of the data in a manner that will prevent any unauthorized access to personal information (e.g., burn, pulverize, shred, etc.).

DISPOSAL OF EIV INFORMATION

All income data (SSA, NDNH) from EIV must be retained in the resident's file for the term of tenancy plus three years from the end of participation date. All EIV reports stored in the EIV master file must be maintained for three years and must be destroyed as prescribed by HUD thereafter. Owners must maintain a destruction log and keep a detailed record of the destruction of all EIV reports. Shredding, burning, or pulverizing are all examples of acceptable ways to destroy EIV data.

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Section 7 Chapter 8 Post Test

1. What must the owner use to calculate social security income if the resident agrees the amount shown in EIV is correct?
   a. The SSA benefit award letter, provided by the resident
   b. The amount shown in EIV
   c. A copy of a bank statement
   d. A copy of the SS check

2. What is the retention period for EIV income reports?
   a. Term of tenancy
   b. Term of tenancy plus three years
   c. Six years from move out
   d. Term of tenancy plus five years

3. Which EIV report is used for applicants?
   a. Income report
   b. Multiple subsidy report
   c. New hires report
   d. Existing Tenant Search

4. Users assign roles in EIV to coordinators.
   a. True
   b. False

5. Owners not using EIV in its entirety will receive an MOR finding, if the violation was discovered during an MOR, and will incur a 5% decrease in their voucher on the month following the date the violation was found, and every month thereafter, until HUD or the CA is satisfied the owner is back in compliance.
   a. True
   b. False

6. If data in EIV is incorrect, who cannot correct the information?
   a. HUD
   b. The owner
   c. SSA
   d. The employer or state workforce agency
   e. Any originator of the data

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7. The *EIV & You* brochure must be offered only with the initial application
   a. True
   b. False

8. Who has to sign the EIV Rules of Behavior (ROB)?
   a. Coordinators
   b. Users
   c. Staff with access to view or use EIV reports in the files
   d. Independent auditors
   e. All of the above

9. The EIV Income Report must be pulled at all annual and interim recertifications.
   a. True
   b. False

10. EIV information for any adult household member may not be disclosed under any circumstances to anyone other than the household member to which it pertains.
    a. True
    b. False

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CHAPTER 9 Contract Renewal, Utility Allowances, and Rent Adjustments

Section 1 Learning Outcomes

LEARNING OUTCOMES

Upon completion of this chapter, you should be able to:

- Describe the contract renewal process
- Recognize the six contract renewal options
- Identify how rent comparability studies are conducted
- Discuss how a utility allowance analysis is performed
- Explain rent adjustments

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Section 2 Contract Renewal Overview

Section 8 Renewal Policy Guide, Chapter 2

HISTORY

In 1997, the Multifamily Assisted Housing Reform and Affordability Act (MAHRA) changed the process by which Section 8 project-based contracts were renewed. Prior to the enactment of MAHRA, there were very few renewal options for owners to choose from. Under MAHRA, all contract rents must now be based on market rents instead of the Fair Market Rent (FMR). Through the late 1990s and early 2000s, there were several other changes and additions to MAHRA that have been compiled in the Section 8 Renewal Policy Guide, which was updated in August 2015.

OVERVIEW

Under MAHRA Section 8 rents must generally be comparable to unsubsidized rents in the area in which the project is located. In some cases, this requirement means that rents at projects where HAP contracts are renewed may increase upon renewal; however, for some projects rents are reduced when contracts are renewed. For many projects, MAHRA requires the preparation of a Rent Comparability Study (RCS) in order to determine if a project's rents really are comparable with market rent levels.

CONTRACT TERMS

All contracts must have a term of at least one year regardless of whether the renewal is of the initial or subsequent contract. The exception is Mark-up-to-Market (MUTM), which must have a minimum contract renewal length of five years.

If an owner wishes to renew their contract for longer than five years, the CA must refer the request to HUD for final approval. The maximum contract term is 20 years. The effective date of any renewed contract is the day after the prior contract expires.

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RENEWAL OPTION DETERMINATION

The options available are determined by the property's eligibility at the expiration date of the existing Section 8 HAP contract.

Notice H 2011-01 requires owners of PBRA or Section 202 or 811 PRACS to obtain and maintain an active Data Universal Numbering System (DUNS) number for their project. The Central Contractor Registry (CCR) referenced in this Notice has been replaced by the System for Awards Management (SAM), where DUNS numbers must be registered and renewed each year.

DUNS numbers are assigned and maintained solely by Dun and Bradstreet. To get your DUNS numbers registered or renewed, go to the SAM website; there is a link at NMAReferences.com.

It is important to remember that to renew a contract, and to get each month's voucher paid, owners must have an active DUNS number. If the DUNS number is not included on each voucher, the voucher will not be paid.

The "Quick Start Guide for Updating/Renewing an Entity" provides guidance for renewing your DUNS number in SAM; there is a link to this as well at NMAReferences.com

Typically, owners may select any renewal option under which their property's Section 8 contract is eligible. However, there are a few exceptions:

- **Projects with Watch List Contracts**: May only renew under Option Three for three consecutive one-year renewals using the Watch List Contract.
  - At the end of the third, one-year renewal, if the project has demonstrated physical, financial and managerial improvement to HUD's satisfaction, the project may renew under any eligible option.
- **Projects with contracts that are renewed under Section 515 of MAHRA (Full Mark-to-Market Renewal Contract)**: Must renew under Option Three during the life of the MTM Use Agreement.

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- **Owners of Preservation projects and Owners of Portfolio Reengineering Demonstration projects**: Must renew under Option Five during the life of the LIHPHRA or ELIPHRA Use Agreements or of the Demo Use Agreement, except that the owner of a Preservation Project may request Mark-to-Market debt restructuring any time prior to Sunset if the project is being transferred or sold. Use Agreements were signed on these properties in order to impose further restrictions on areas such as owner distributions and refinance proceeds. They are considered part of the HAP contact and the terms therein are enforceable.
- In order to determine the property type for a specific property, you will need to refer to the original HAP contract and governing documents. This can be obtained from the owner, Contract Administrator or HUD Project Manager.

RAD PBRA: Mandatory Contract Renewal

Upon expiration of the initial contract and each renewal contract, HUD must offer, and the project owner must accept, renewal of the contract subject to the terms and conditions applicable at the time of renewal and the availability of appropriations. The renewal contract must have contract rents set in accordance with the renewal options available under MAHRA. RAD properties have the same options for contract renewals as other PBRA properties have, except there is no option to opt-out for RAD PBRA properties.

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Section 3 Timing and Documentation

Section 8 Renewal Policy Guide, Chapter 2

It is recommended that owners designate one person to be responsible for each property's contract renewal and annual rent adjustment. This will help ensure all proper documentation is submitted in a timely manner and there is less confusion concerning responsibility and duties.

The renewal process should start for each property between 13 and 14 months before the contract expires. The United States Housing Act requires owners give residents and HUD a one-year written notice of the contract's termination or expiration. The notification must state the owner's intentions to renew or not renew at the time of the contract's expiration. Owners must ensure that each resident receives this notice either by hand delivery directly to each unit or by mail. HUD specifies that taping the notice to the outside of each unit is not acceptable. Sample notifications may be found in Appendix 11-1 of the Section 8 Renewal Policy Guide. The owner is required to communicate the intent to either renew or not renew the contract.

Owners now have 6 options to chose from when renewing a contact. Each option is discussed below. Not all options can be used for all properties types. Owners should consider all options available before submitting the request for renewal. After notification requirements have been met, owners must submit their chosen option and required documentation to HUD/CA at least 120 days prior to contract expiration but no earlier than 180 days before expiration, regardless of which renewal option is chosen. For annual rent adjustments HUD encourages owners to submit their utility analysis 150 days prior to the contract anniversary date to utilize the Auto OCAF (discussed below) process to its maximum benefit. If all required documentation is not submitted within 120 days of the contract's expiration date, an interruption in HAP funds may occur.

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Documentation to be submitted includes:

- Contract Renewal Request Form (Form HUD-9624)
- All other applicable forms depending upon renewal option chosen
- An analysis of the project's utility allowances, owner's recommendation, and certification of compliance with notification procedures per Notice H 2015-04
- If applicable:
  - The OCAF Rent Adjustment Worksheet (Form HUD-9625)
  - Rent Comparability Study (RCS)
  - A budget-based rent increase request or a RHS-approved budget

After submission of required documentation, the HUD/CA will review the package within 30 days of submission. The HUD/CA will check to ensure the owner is eligible to renew under the selected option, has provided all required documentation, and has indicated if they want to combine any contracts.

After review, the owner will receive correspondence from the HUD/CA asking for more information or approving the renewal/rent adjustment package before expiration of the current contract or adjustment period. After the owner has received final approval, they may proceed with a rent and utility allowance change, also known as a gross rent change, effective at the time of the previous contract's expiration.

It is not recommended that any changes be made to the existing certifications until the final executed documents have been received from HUD with a signature from HUD/CA. This will avoid any last minute changes or corrections.

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Section 4 Renewal Options

OPTION ONE: MARK-UP-TO-MARKET (MUTM)

Section 8 Renewal Policy Guide, Chapter 3

In 1999, Option One was introduced as an emergency option for owners whose properties were located in strong rental markets but whose contract rents were below market. The goal was to increase contract rents to market as an incentive for owners to renew their contracts and continue to provide affordable housing. Contract renewals under this option are referred to as Option One-A and are only available for certain properties that meet specific eligibility criteria. Under MUTM, however, Option One-B was created in an effort to further preserve affordable housing by allowing HUD to extend the option of marking rents up to market for properties that do not meet the specific eligibility criteria under Option One-A but are still considered important affordable housing resources.

Eligibility for both Option One-A and One-B renewals requires the following:

- Current rent levels under the expiring or terminating contract cannot be more than comparable market rents.
- The property must have:
  - Scored a “Satisfactory” or above on the most recent Management and Occupancy Review (MOR); and
  - Scored a 60 or above without any uncorrected Exigent Health and Safety (EH&S) violations during the property's last Real Estate Assessment Center (REAC) physical inspection.
- All Financial Assistance Subsystem (FASS) findings need to be closed or under a HUD-approved corrective action plan.

- The property owner must be one of the following:
  - A profit-motivated entity (including a limited distribution entity)
  - A housing authority occupying the status of a "public body corporate and politic" under the state legislation under which it was created
  - A limited partnership with one or more nonprofit general partners or a sole general partner that is wholly owned and controlled by one of more nonprofit entities
  - A limited liability company with one or more nonprofit managers or nonprofit managing members or a sole manager or managing member that is wholly owned or controlled by one or more nonprofit entities where the managing general partner is wholly owned and controlled by a nonprofit entity

There are other criteria based on contract use and restrictions that determine whether a property is eligible for One-A or One-B.

Whether Option One-A or One-B is selected, a rent comparability study is required at the time of renewal. Most contracts renewed under Option One are renewed in five-year increments. During the term of the contract, budget-based rent increases are not permitted; rents are only adjusted by the published OCAF.

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OPTION TWO: CONTRACT RENEWALS FOR OTHER PROJECTS WITH CURRENT RENTS AT OR BELOW COMPARABLE MARKET RENTS

Section 8 Renewal Policy Guide, Chapter 4

Option Two is used when the RCS shows:

- The contract's aggregate current rents are at or below comparable market rents; or
- The contract's aggregate current rents exceed comparable market rents, but the project is exempt from Mark-to-Market (MTM) restructuring and the owner is willing to lower the rents to comparable market rents before renewal of the contract.

Under Option Two, rent increases may be completed by using the annual OCAF or, at the discretion of HUD, a budget-based adjustment limited by the current market. Most contracts renewed under Option Two are renewed in five-year increments. The RCS data is only applicable for five years, and a new RCS must be performed after this time frame, and rents adjusted accordingly.

OPTION THREE: REFERRAL TO RECAP

Section 8 Renewal Policy Guide, Chapter 5

Under Option Three a project with rents above comparable market rents is referred to the Office of Recapitalization or Recap (formerly known as OAHP) for processing and renewal. This option is for properties with a HUD-insured or HUD-held mortgage. Under this option, the owner is requesting to restructure the property's debt. This option will expire on October 1, 2017 unless extended by statute. If there are binding commitments to restructure in place prior to the expiration, processing may continue past the expiration date.

Except for moderate rehabilitation (MOD Rehab) contracts under Section 441 of the McKinney Act, all properties that have a Section 8 moderate rehabilitation contract are eligible for referral to Recap if the contract rents are above market, and the property is not exempt from debt restructuring under Section 514(h) of MAHRA.

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There are two options under Option Three:

- Option 3A: A light version of Option Three where a mandatory RCS is completed and shows that:
  - Rents must be lowered to comparable market levels
  - The property would be able to financially absorb a rent reduction
- Option 3B: A full renewal option where a mandatory RCS is completed and shows that:
  - Rents must be lowered to comparable market levels
  - The property would not be able to financially absorb a rent reduction

If the owner or affiliate has been placed on a watch list or has been suspended or debarred, the property may only be eligible for Option 3A. For either version of Option Three, owners may not complete either an OCAF or budget-based rent increase since rents are already at or above market.

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OPTION FOUR: RENEWAL OF PROJECTS EXEMPT FROM OR NOT ELIGIBLE FOR DEBT RESTRUCTURING

Section 8 Renewal Policy Guide, Chapter 6

Option Four is the renewal of contracts for exception projects under Section 524(b)(1) of MAHRA. These projects are exempt from debt-restructuring pursuant to Section 514(h) of MAHRA or are not an eligible multifamily housing project as defined in Section 512(2) of MAHRA.

Exempt properties include:

- Properties where the primary financing or mortgage insurance was provided by a state or general local government or an agency of either, and are insured under the National Housing Act
- Section 202/8 and 515/8 properties, unless refinanced with Federal Housing Administration (FHA) mortgage insurance
- Section 202 properties that have been refinanced pursuant to Section 811 of the American Home Ownership and Economic Opportunity Act of 2000
- Single Room Occupancy (SRO) Moderate Rehabilitation (MOD Rehab) properties

Properties that do not meet the definition of *eligible multifamily housing project* include:

- Properties that do not have an FHA-insured or HUD-held mortgage
- Properties that do have an FHA-insured or HUD-held mortgage with rents at or below comparable market rents

The lesser of test is required at both initial and subsequent renewal. Rents are to be set at the lesser of:

- Current rents as adjusted by OCAF or
- Budget- based rent level

Please note that under this option project rents may be reduced to the budget based rent level if supported.

This is the most common option that under which contacts are renewed and are subject to the auto OCAF process recently implemented by HUD. Rent increases under this option may be performed using the annual OCAF or a budget-based method. However, if the owner wishes to use the budget-based method, the increase will be denied unless an RCS was submitted within the last 5 years and rent amounts are comparable to the market rents shown on the RCS.

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OPTION FIVE: RENEWAL OF PORTFOLIO REENGINEERING DEMONSTRATION OR PRESERVATION PROJECTS

Section 8 Renewal Policy Guide, Chapter 7

Eligibility for this renewal option is limited to two types of projects:

- Portfolio Reengineering Demonstration (Demo) properties that completed the demo program as evidenced by a:
  - Mortgage Restructuring Demo Program Use Agreement; or
  - Budget-Based Without Mortgage Restructuring Demo Program Use Agreement
- Preservation projects that primarily consist of Section 236 and 221(d)(3) BMIR projects whose owners entered into long-term use agreement with HUD under either:
  - Title II, Emergency Low-Income Housing Preservation Act of 1987 (ELIHPA); or
  - Title VI, Low-Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPRHA)

If the owner entered into the demo program, but did not execute and record a Demo Program Use Agreement, the project is not eligible for renewal under Option Five and may use any other option for which the property qualifies.

The Portfolio Reengineering Demonstration Program (PRD) has been replaced by the Mark-to-Market (MTM) program and HUD is no longer processing initial renewals under the PRD program. However, HUD is still processing subsequent renewals.

Under Option Five the renewal term is a minimum of one year and a maximum term not to exceed the lesser of 20 years or the remaining life of the project's Demo Program Use Agreement. If the property's contract is longer than five years, the owner must submit an RCS to HUD at the end of each five year increment. HUD will adjust the property's rents so they are equal to comparable market rents. Every year the property's rents may be adjusted by either the OCAF or the budget-based method.

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OPTION SIX: OPT-OUTS

Section 8 Renewal Policy Guide, Chapter 8

If an owner has satisfied all requirements and chooses to opt out of the Section 8 contract, the owner may request to opt out of the program by providing the Contract Renewal Request (Form HUD-9624) to the CA and selecting Option Six. The CA will ensure the owner is eligible under the contract to opt out.

When an owner chooses to opt out, they are obligated to honor the right of residents to remain and must follow specific notification requirements. Any owner wishing to opt out must provide residents with a one-year notification. If an owner changes their mind, HUD will renew the contract up until the day the contract expires. Once a contract has expired, however, HUD is unable to enter into a new contract with the owner if Option Six has been selected.

RAD PBRA: Contract Renewal

Note that under RAD PBRA, the PHA may not opt out. The PHA must accept contract renewals. Contracts are renewed automatically, subject to the appropriation of funds. The parts of Section 524 of MAHRA and 23 CFR Part 402 that refer to contract renewal "at the request of the owner" do not apply to RAD PBRA.

Section 5 Rent Comparability Study (RCS)

Section 8 Renewal Policy Guide Chapter 9

Certain renewal options require a Rent Comparability Study (RCS). RCSs identify each unit type in the property and compare the rent at other properties in the vicinity to the subject property. They are completed in an effort to ensure that contract rents at assisted properties are not too far above or below local market rents. Renewal options that do not require an RCS include:

- Option 3B
- Option Four when owner is using OCAF rent adjustments
- Preservation properties
- When the owner opts out of the contract

Beginning the initial renewal year of an expiring contract, a new RCS is not required again for five years. The five-year time frame generally falls in line with the date of the contract expiration and, in general, any contract that renews during the five-year period may only be renewed for a term that does not exceed the remaining period of the RCS.

The RCS is submitted by the owner with the renewal package at least 120 days before, but no earlier than 180 days before, the anniversary date of the contract. Data contained in the RCS may be no older than 180 calendar days old at the time it is submitted to the HUD/CA.

If required by the renewal option selected, the owner must hire an outside contractor to complete the RCS before submitting renewal documentation to the HUD/CA. The contractor must:

- Be a Certified General Appraiser, licensed and in good standing in the state where the property is located
- Be currently active and regularly engaged in performing RCSs or appraisals of multifamily housing
- Meet all the requirements of the current Competency Provision in the Uniform Standards of Professional Appraisal Practice (USPAP)
- Have no prospective or present financial interest in the property, its ownership or management agent, or the principals of those entities

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- Not be an employee of the owner, the management agent, or the principals of those entities or have a business or close personal or family relationship with those parties that would commonly be perceived to create bias or a conflict of interest
- Not be debarred or suspended from doing business with the federal government and not be under a Limited Denial of Participation (LDP) imposed by the Regional Center or Satellite Office having jurisdiction over the Section 8 project

The RCS must be completed on Form HUD-92273-S8 and must include at least the documentation below. Each item below must cover the topics or data identified in Appendix 9-10 of the *Section 8 Renewal Policy Guide*.

- Contractors Transmittal Letter
- Scope of Work
- Description of property, including color photos
- Identification of the property's market area
- Description of the neighborhood
- Narrative describing selection of comparables
- Locator map for property and comparables
- Rent comparability grid for each primary unit type
- Narrative explaining adjustments and market rent conclusions
- Comparable property profiles, each including a color photo
- Appraiser's certification
- Copy of appraiser's license, if relying upon a temporary license

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The contractor must sign and take full responsibility for the report. The contractor should provide information that goes beyond the minimum requirements if such information is needed for HUD to understand the RCS conclusions.

The cost of the RCS is a qualifying property expense if HUD has requested the RCS. Any unsolicited RCS is not an eligible property expense.

Aside from the RCS, at renewal owners have two other options to demonstrate how proposed rents compare to rents charged for other units:

- Comparing proposed Section 8 rents to fair market rents (FMRs)
- Comparing Section 8 rents to rents charged for other units in that Section 8 property

HUD has provided these alternative options to avoid the costs, processing times, and delays associated with RCSs when facts strongly suggest that the proposed rents would be under rents computed in an RCS. Eligibility criteria are listed in Paragraph 9-6 of the *Section 8 Renewal Policy Guide*.

RAD PBRA: Adjusting Contract Rents

Contract rents will be adjusted by HUD's OCAF at each anniversary of the HAP contract, subject to the availability of appropriations and the Maximum Rent.

The Maximum Rent is the higher of:

- 140% of FMR (less utility allowance)
- Market rents as demonstrated by an RCS

The owner procures and pays for the RCS. When an RCS is used to establish initial rents or to justify a rent in excess of 140% of the FMR, the RCS remains in effect for five years, and the Maximum Rent will not apply for the next four annual rent adjustments. Rents will only be adjusted by the OCAF.

For information on how initial rents are set at RAD PBRA projects, see Notice PIH 2012-32, REV-2, H 2017-3, REV-3, and H Notice 2019-09, REV-4.

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Section 6 Utility Allowance Analysis

Notice H 2015-04

On June 22, 2015, HUD published Notice H 2015-04 that amended the methodology owners use to complete an annual Utility Allowance Analysis (UAA). Previously, a full UAA was required annually at the time of rent adjustment or contract renewal for each property or at the time of any special adjustments. Further, adjustments had to be made whether the utility allowance increased or decreased, rent adjustments had to be held until the UAA was completed, and owner certifications in lieu of the UAA were not accepted.

Sample Size Methodology

A full UAA is now only required once every three years instead of annually. For the two years thereafter, owners may perform a factor-based utility analysis.

Every third year, a baseline utility analysis for each bedroom size must be performed. In these years, owners must request utility data for each bedroom size in the property from the local utility company or resident household for at least the number of units determined by the sample size methodology. Owners may include more than the minimum required number units, but may not use less.

When requesting utility data from the local utility company, owners may either use the sample consent for release form that is included in Notice H 2015-04, or use the local utility company's release form, if that is their preference. Remember, refusal to sign any consent for the release of information is a material violation of the lease, and may result in termination of tenancy.

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Sample Size Methodology	
Number of Units	Minimum Sample
1-20	All
21-61	20
62-71	21
72-83	22
84-99	23
100-120	24
121-149	25
150-191	26
192-259	27
260-388	28
389 and above	29

If the property consists of multiple identical buildings, sampling may be performed at the property level for each bedroom size. If the buildings are not identical, sampling must be done for each bedroom size for each building.

Units should be excluded from the sample if they:

- Are receiving an increased utility allowance as a reasonable accommodation
- Have been vacant for two or more months
  - Units included in the sample should have at least 10 months of occupancy
- Are receiving a flat utility rate as part of a low-income rate assistance utility program

For properties in California, the California Climate Credit should not be used when calculating utility allowances. It is not to be considered a reduction in electricity cost; however, it must be counted as part of the annual income calculation. This guidance applies only to the California Climate Credit. Questions regarding similar benefits should be submitted to HUD for further review.

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CONDUCTING THE UAA

Four months before contract expiration or rent adjustment, owners must request the resident usage data from the utility provider and complete an analysis. The utility information for each unit included must be from the same 12 month date range. For ease of processing, HUD has created utility allowance spreadsheets that owners may use. They can be found as attachments to Notice H 2015-04. Local CAs may also have an expanded version that they prefer.

After the data has been received and analysis portion has been completed by the owner, the owner must notify residents of the proposed utility change. The owner must give residents a 30-day comment period; all comments must be documented and included with UAA information.

Owners submit their UAA and all supporting documentation to the HUD/CA. The package must include data received by utility provider, analysis spreadsheet and calculations, and certification that the owner complied with the 30-day resident comment period as well as any comments received. The UAA package is generally submitted with the contract renewal and rent adjustment documentation.

For residents who receive assistance from the Department of Health and Human Services Low-Income Housing Energy Assistance Program (LIHEAP) or (HEAP), Notice H 2015-04 states tenants must report this income, and it must be counted as income. However, Exhibit 5-1 in the 4350.3 lists this as excluded income. The Notice H 2015-04 FAQs posted to HUDCLIPS on February 10, 2022, also state that this is excluded income.

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Factor-Based Utility Analysis

For the two years after a baseline UAA is completed, the utility allowance amounts for each bedroom size may be adjusted by a state-specific increase factor published annually by HUD called a Utility Allowance Factor (UAF). This may be used in lieu of a baseline UAA during the two years after the baseline UAAs completed. The UAF is determined by considering the state-specific average retail price of electricity, natural gas, water, and oil or propane for residential customers published by the U.S. Energy Information Administration, and can be found on the HUD User website.

After completing the property's UAA under the factor-based method, owners should compare the adjusted utility analysis to their actual paid utilities over the previous 12 months. If the results indicate a significant disparity between the two, the owner should complete a baseline UAA to ensure the utility allowance is accurate.

The timeline and submission requirements for a factor-based UAA are the same as for a baseline UAA with the exception that the owner does not provide information from the utility provider.

Utility Reimbursements

As we know, some properties issue checks for utility reimbursement payments (URP), while others issue the URPs by depositing them on debit cards. If the resident doesn't cash the checks, or lets the balance on the debit card accumulate without activating it, even after being notified to do so repeatedly by the owner, owners may not pull monies back off a debit card or cancel checks that have not been cashed.

Once a check is made payable to the resident, or funds are deposited to a resident's debit card, ownership of the funds transfers to the resident. This means neither HUD nor the O/A may receive the funds back; it is the resident's money to do with as they see fit.

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UA Changes Outside of the Contract Rent Adjustment Schedule

When changes in utility rates result in a cumulative increase in utility allowances of 10 percent or more from the most recently approved utility allowances, owners must submit documentation and request an increase in utility allowances. A 10 percent increase in any one utility may not necessarily result in a corresponding 10 percent or greater increase in the utility allowance. The owner must submit either:

- Utility bills from the month prior to the utility rate change and the first month after the utility rate change
- Verification of the increase from the utility provider

RAD PBRA: Utility Allowance

In general, the utility allowances in the HAP contract at closing must be the utility allowances that are in effect for each public housing unit type prior to conversion. Refer to Attachment 1C of the RAD Notice, which includes information on how an alternative utility allowance may be established at conversion when the owner can demonstrate that energy-saving improvements will result in measurable tenant-paid utility cost savings.

In accordance with Notice H 2015-04, *Methodology for Completing a Multifamily Housing Utility Analysis*, properties undergoing new construction or substantial rehabilitation may establish initial utility allowances for new or rehabilitated units based on an analysis completed at underwriting through an energy consumption model, but only in the first year of occupancy post-construction. When the property is occupied and the owner can obtain 12 months of consumption data, the owner must then follow the methodology in Notice H 2015-04 and establish a baseline analysis.

For properties not undergoing new construction or substantial rehabilitation, the owner must follow the methodology in Notice H 2015-04 and establish a baseline analysis beginning with the first contract anniversary after the RAD conversion.

If an owner fails to submit a utility analysis with a rent adjustment submission, the owner's rent adjustment will be withheld until a utility analysis is provided to HUD. Once the required documents are received, HUD will retroactively implement the rent adjustment.

If a RAD PBRA property also has PBV, straight LIHTC units, HUD HOME units, or other programs on the same property, the UAA sample selected should only include units covered under the RAD PBRA HAP contract.

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Section 7 Rent Adjustments

Annually on the anniversary date of contract execution, owners must complete the rent adjustment process for each effective contract. Owners may select to receive a rent adjustment based on Operating Cost Adjustment Factor (OCAF) as published annually by HUD or, if applicable, by a budget-based request of the owner, subject to approval by HUD.

Properties that do not qualify for an OCAF include:

- Option One: Mark-up-to-Market
- Option Two: Contract renewals for other projects with current rents at or below comparable market rents
- Option Five: Portfolio Re-engineering Demonstration Program (Demo) contracts

These properties will have their rents reduced or increased to the comparable market rent based on the current RCS for the property.

Operating Cost Adjustment Factor (OCAF) Adjustments: Every year, HUD publishes a new OCAF rate in the Federal Register for each state. Selection and eligibility for an OCAF adjustment should not result in a rent reduction at any time.

Budget Based Adjustments: Under eligible contract types and renewal options, an owner may prepare a budget-based rent increase request instead of completing an OCAF adjustment. Budget-based rent adjustments are calculated by the owner based on actual line items and expenses incurred at the property. With this option, owners must explain and document any line increase of five percent or more. This ensures the request is in line with the actual needs of the property. Appendix 4 of HUD Handbook 4350.1 has an example of budget explanations that owners may use as a guide.

HUD Handbook 4350.1 Chapter 7

Generally, rent adjustments are completed at the same time as utility allowance changes by way of a gross rent change, unless there is call for a mid-term utility allowance change. Owners should follow the information outlined in Chapter 7 of HUD Handbook 4350.1, Multifamily Asset Management and Project Servicing.

Annual Adjustment Factor (AAF) Adjustments: For Section 8 properties that are still pre-renewal under MAHRA, rents are adjusted by the AAF. HUD published the AAF table on an annual basis by state. There is a rate for turn over units and another (called Tables) for non-turnover units. Rents are effective on the contract anniversary date. For specific information on submission guidelines, see the most recent HUD notice (H 2002-10).

RAD PBRA: Rent Adjustments

Contract rents will be adjusted by the OCAF annually at the anniversary date of the HAP contract subject to:

- The availability of appropriations
- The Maximum Rent

The Maximum Rent is the higher of:

- 140 percent of the FMR minus the utility allowance (if applicable)
- Market rents as demonstrated by an RCS

When an RCS has been used to establish initial rents or to justify an OCAF adjusted rent that exceeds 140 percent of the FMR:

- The RCS will remain valid for five years
- The Maximum Rent will not apply for the next four annual rent adjustments
- Rents will only be adjusted by the OCAF

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Section 8 Chapter 9 Post Test

1. When a HAP contract is going to expire, when must residents be given notice of the expiration and the owner's intent to renew or opt out?
   a. 5 years
   b. 1 year
   c. 180 days
   d. No notice to the residents is required

2. If the owner opts out of a contract and does not begin the renewal process prior to the date of expiration, once it expires, HUD may not enter into a new contract with the owner for that property.
   a. True
   b. False

3. Every multifamily property is eligible to choose either a budget-based rent increase or an OCAF increase at every rent adjustment.
   a. True
   b. False

4. A full utility allowance analysis must be completed every three years.
   a. True
   b. False

5. If the utility allowance will change, the owner must:
   a. Give residents a 60-day notice
   b. Give residents a 30-day notice
   c. Give residents a 30-day comment period
   d. Give residents a 60-day comment period

6. An RCS is required any time an owner wants to renew their contract with HUD.
   a. True
   b. False

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CHAPTER 10 TRACS, Vouchers, and Special Claims

Section 1 Learning Outcomes and Overview

LEARNING OUTCOMES

Upon completion of this chapter, you should be able to:

- Provide a basic overview of the Tenant Rental Assistance Certification System (TRACS)
- Explain what MAT files are and what they do
- Recognize when MAT errors are generated and the different possible categories errors
- Apply various tips for successful submission to TRACS
- Recall the timeline requirements for submission
- Describe the purpose and different parts of the voucher
- Apply the requirements for voucher payments and billing
- Explain the special claims process, including eligibility and types of claims
- Apply the requirements for special claims submission and review

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Section 2 Tenant Rental Assistance Certification System (TRACS)

TRACS is a HUD online secure system that owners use to submit all resident certification information and monthly billing for the property to HUD.

The Multifamily Housing arm of HUD uses the Tenant Rental Assistance Certification System (TRACS) to house resident data for each property. The current version is 202.D. The release of 203.A has been delayed. The most recent delay is due to lack of approval from the Office of Management and Budget (OMB) for changes to forms as a result of the update, for example:

- 50059 (certification)
- 52670 (monthly HAP voucher)
- Race and Ethnic Data (27061H)
    - *list is not all inclusive

Owners must have a WASS username and password to access TRACS. You must access TRACS at least every 90 days or your access will be terminated. If your access gets terminated, call 1-888-245-4860 to reinstate access. This is not a general help line; it is for access only.

TRACS coordinators are responsible for certifying TRACS users annually. Annually, users and coordinators must complete the TRACS Rules of Behavior (ROB) certification, which is separate from EIV, and the cyber awareness training, which is the same as EIV. The Rules of Behavior can be found by logging into HUD's secure systems and choosing either TRACS or iMAX, then printing and signing the certification form, which should be kept in your EIV permanent records file. The TRACS ROB and cyber awareness certificate are subject to review during an MOR, the same as the EIV ROB and other EIV documents.

Each owner must have a TRACSMail ID. The link to submit the TRACSMail ID Request and Registration Form is at NMAReferences.com.

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For every 50059 and 50059-A created, a corresponding TRACS file is also created to be sent to HUD. Tenant data MUST be submitted before the HAP voucher request monthly. Data should be submitted throughout the month as 50059 and 50059A certifications are completed. TRACS data and voucher requests must be submitted no later than the tenth of the month before the voucher month but cannot be sent earlier than the first of the month.

Example: Requests for April voucher payments are sent after March 1 but no later than March 10.

The Integrated Multifamily Access Exchange System (iMAX) is a web interface and a system-to-system interface to allow the owner's software to communicate with HUD systems. The owner's software has the capability to create TRACS files, send them to TRACS, and receive messages from TRACS, using the TRACSMail ID created during the owner's setup phase. If the TRACSMail ID and password are unknown, check in the owner's software, or with the software provider. As data is submitted to TRACS, the software will prompt the owner to enter their WASS username and password. For system-to-system data the send and receive is done automatically. For web transmission of data, instructions will be given to the owner by the software provider.

The current version of TRACS is 202.D which was fully implemented in March of 2015. All older versions are no longer active. There were several updates with the implementation of 202.D, including new items on the HUD Form 50059, repayment agreement tracking on the voucher, and earlier submission of gross rent changes.

TRACS users must recertify annually and reactivate user accounts after 90 days of account inactivity (90-Day Rule). All TRACS users must also sign a TRACS Rules of Behavior (ROB) annually. Most owners maintain this documentation in the EIV Master File for permanent records under a separate tab. Coordinators have been assigned roles (TCC and TCR) that allow them to access the TRACS Recertification Subsystem to perform the required functions. The 90-Day Rule was effective July 28, 2017, therefore the first TRACS/iMAX deactivations for inactivity began October 22, 2017.

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Links to the TRACS Recertification Internet User's Guide and the 2017 Mandatory TRACS User Recertification training are available at nmareferences.com.

TRACS Information Sources

Each time a new 50059 or 50059-A is created in the owner's software, that certification must be sent to TRACS via an electronic file created through the software and sent to either HUD or the Contract Administrator (CA) for processing in TRACS.

RAD PBRA TRACS Submissions

RAD properties send their data and voucher requests directly to HUD in TRACS.

HUD recommends as a best practice that each property have their own unique TRACSMail box, to help keep TRACS responses clear.

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Owner/Agent
50059/50059-A created by Owner/Agent and sent to HUD/CA via electronic file created in software.
HUD/CA
• Receives/reviews owner/agent TRACS file.
• Sends file to TRACS via electronic file converted to 'TRACS' language.
TRACS
• Receives/processes file sent from HUD/CA.
• Approves and stores information sent or creates a discrepancy report to send to HUD/CA.

Each line item of the 50059 or 50059-A directly relates to information that will be sent to and recorded in TRACS. If the information on the certification is incorrect, the information in TRACS will be incorrect and will be sent back to the owner for corrections.

MONTHLY ACTIVITY TRANSMISSION (MAT) FILES

HUD 202D MAT Guide, Chapter 2

Monthly Activity Transmission (MAT) is the language the owner's software speaks with HUD's secure systems. MAT is a front-end subsystem of TRACS that accepts data transmitted from owner's software and returns processing messages concerning the files transmitted. MAT data is transmitted to HUD/CA via an electronic mailbox called Integrated Multifamily Access Exchange (IMAX).

MAT files with either be returned containing an error messages or a transmission confirmation message if there were no errors.

Once the data has passed the MAT subsystem processing, it is available to TRACS for tenant and voucher processing.

MAT processing occurs as files are received, while TRACS processing occurs in a batch overnight. Results of the processing are returned to the sender via the web browser.

Each certification type has a corresponding MAT file number that enables the information from the certification to be uploaded into TRACS.

CERTIFICATION TIPS FOR SUCCESSFUL TRANSMISSION

Move-In Certification (MI):

- The previous household must be successfully moved out of the unit in TRACS before submitting a move-in for the unit.
- The move-in certification must be signed by owner and the household before TRACS will accept it.
- If the new household was previously assisted at another property, the household must be moved out of the previous property before submitting the move-in for the new property to TRACS. It is important to know the date of the household's move-out from the previous property to avoid any double subsidy issues.

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- Any corrections to recertifications may be sent any time after the original certification has been submitted and accepted in TRACS.
- When entering a new move-in, the correct gross rent amounts will be effective on the new certification. If the correct gross rent amounts are not used, the certification will be rejected in TRACS.

Annual Recertification (AR):

- All annual recertifications must be signed by the owner and household before TRACS will accept them.
- All annual recertifications must be completed timely and to TRACS before the 15-month cutoff date.
- Any corrections to recertifications may be sent any time after the original certification has been submitted and accepted in TRACS.
- When entering a new AR, the correct gross rent amounts will be effective on the new certification. If the correct gross rent amounts are not used, the certification will be rejected in TRACS.

Interim Recertification (IR):

- All interim recertifications must be signed by owner and household before TRACS will accept them.
- Any corrections to recertifications may be sent any time after the original certification has been submitted and accepted in TRACS.
- When entering a new IR, the correct gross rent amounts will be effective on the new certification. If the correct gross rent amounts are not used, the certification will be rejected in TRACS.

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Initial Certification (IC):

- The property must have available subsidy for the household according to the property's Section 8 contract.
- When an initial certification is completed, the household's annual recertification date will change from the anniversary date of the household's original move in to the date when the household began receiving subsidy.

  Example*: The Smith family moved into Happy Valley Apartments on 10/1, however, their income increased to the point where subsidy had to be terminated. Six months after their subsidy was terminated, the household became eligible and began receiving subsidy again on 4/1. The household's new recertification date is 4/1 because an initial certification was completed on that date.*

- In order to complete an initial certification, a termination must have been submitted to and accepted by TRACS previously for the affected household.

Unit Transfer (UT):

- All transfer certifications must be signed by owner and household before TRACS will accept them.
- A new income/asset/household composition certification is not completed when submitting a unit transfer. If there is cause for a new certification while completing the transfer, an interim unit transfer is completed.
- The household's annual recertification date will remain the same when they transfer from one unit to another in the same property.

  Example*: The Deyo family moved into Happy Valley Apartments on 9/1 and transferred to another unit at Happy Valley Apartments on 12/1. The household's annual recertification date remains 9/1.*

Gross Rent Change (GR):

- Gross rent change certifications must be signed by the owner in all cases before TRACS will accept them.
- Any gross rent change that affects the resident's portion of the rent must be signed by the resident as well as the owner before TRACS will accept.

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- When entering gross rent changes into software, the certification may changes any AR or IR that was already entered causing the AR or IR to need signatures again.

  Example*: Happy Valley Apartments had a gross rent change effective 10/1. The Hastings' annual recertification is due 10/1 and was completed on 8/25. Because the gross rent change is effective the same date as the annual recertification, a new annual recertification 50059 will be created with the most up-to-date gross rent information in place of a gross rent 50059-A. The owner/agent and the household are required to sign the updated annual recertification 50059.*

- Gross rent changes must be submitted to TRACS the month the change is effective or the month immediately after the effective date.

  Example*: Happy Valley Apartments had a gross rent change effective 10/22. Because of the mid-month change, the gross rent certifications will not be submitted to TRACS until the 12/1 voucher. If the effective date of the gross rent change was 10/1, the gross rent change certifications would be submitted with the 10/1 or 11/1 voucher, depending changes to the resident rent portion.*

Termination (TM):

- Any termination sent to TRACS must be processed correctly and the household should no longer be receiving subsidy on the next voucher.
- All terminations must be signed by the owner and household before TRACS will accept them.

Move-Out (MO):

- Move-out certification must be processed in TRACS correctly and not overwritten by another type of certification submitted in the same MAT file.
- Move-outs where the previous household will be moving to another subsidized unit must be processed in TRACS for the correct effective date (the day before the move-in).
- All move-outs must be signed by the owner before TRACS will accept them.

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SUBMISSION TIMELINE

Tenant data should be submitted throughout the month as the completed data is available. HUD 50059 and 50059-A supporting voucher requests must be transmitted prior to voucher transmissions.

TRACS certifications are processed in the following order:

1. HAP Voucher
2. MO Certifications
3. Termination Certifications
4. MI, AR, IR, and IC Certifications
5. UT Certifications
6. GR Certifications

Because MAT files are recorded in TRACS in order, there are times where the most current certification or correct certification may be overwritten by another certification submitted in the same TRACS file. The owner should send MO, TM, and UT files as soon as they are completed to ensure correct processing in TRACS.

> ***Example****: The Lees are a Section 8 assisted household that live at Happy Valley Apartments. They will be moving out of the property on 10/30; however, Happy Valley Apartments has had a GR for all households effective 10/22. Due to Happy Valley's GR change date, the GR certifications would not be sent to TRACS until the 12/1 voucher. The 10/30 MO would be sent at that time as well if Happy Valley did not send it in a file by itself.*
>
> *Because of the order in which TRACS records certifications, the MO certification would be recorded first and then the GR certification would overwrite the MO. The household would remain active in TRACS. In order for the manager to avoid this issue, GR certifications should be sent to TRACS first. They should wait a full 24 hours and check to ensure the GR has been successfully recorded and then send the MO certification for the household.*

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Section 3 Vouchers

The voucher is the vehicle through which owners bill HUD for the property's monthly HAP amount. This process generally works hand-in-hand with the monthly TRACS submission and is processed in the same fashion.

All information contained in the voucher is pulled directly from the certifications that have been completed in the owner's software. It is important to remember this because, if the information in the software is not correct, the information on the voucher will not be correct either. All software vendors that provide TRACS and voucher services are required to implement HUD rules governing which certifications will appear on a voucher or be selected for adjustments. Appendix H of the HUD 202D MAT Guide has a full description of the calculations that must be used by software vendors to ensure proper vouchering for all applicable properties.

There are six parts of the physical and electronic voucher, however, the three most commonly generated parts are:

- **HUD Form 52670 Cover Page**: Owner's certification that all information contained is true and correct to the best of their knowledge.
  - Also gives the basic details of the property and the total payment billed.
- **HUD Form 52670-A Part one**: The schedule of regular tenant assistance payments due.
- **HUD Form 52670-A Part three**: The schedule of adjusted tenant assistance payments due.

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The three parts listed above are generated each month for all properties. The three parts that are only generated under certain circumstances are:

- **HUD Form 52670-A Part two and part five**: The schedule of Section 8 special claims and approved special claims. This page will only be present when the owner is billing for approved special claims on a specific voucher.
- **HUD Form 52670-A Part four**: The schedule of miscellaneous accounting adjustments being requested by the owner.
- **HUD Form 52670-A Part six**: The schedule of repayment agreements.

VOUCHER BILLING

Owners bill HUD for the property's HAP one month in advance. Every month the owner sends TRACS files and billing for the following month. TRACS and the monthly voucher must be sent to HUD/CA no later than the 10th of each month. If the files are sent after the 10th, HAP may be interrupted. As a best practice, TRACS files should be sent a few days before the 10th to ensure any issue that may arise can be corrected.

Voucher Month	Submission Deadline	15th Month Certifications
January	December 10th	October
February	January 10th	November
March	February 10th	December
April	March 10th	January
May	April 10th	February
June	May 10th	March
July	June 10th	April
August	July 10th	May
September	August 10th	June
October	September 10th	July
November	October 10th	August
December	November 10th	September

***Example**: The manager of Happy Valley Apartments is getting ready to send TRACS for the month of October. She is aware that all October certifications and the October voucher must be sent to TRACS by the 10th of September. Because she has kept up with her property's certifications, she sends all needed files on September 8.*

Example of Best Practice Timeline: November Voucher/TRACS Files

- **September 1-30**: Send tenant data to TRACS as it is finalized, throughout the month
- **September 20**: Check TRACS to ensure all correct certifications are recorded.
- **September 25**: Ensure all October certifications that were not transmitted are now complete and ready to be sent to TRACS. Ensure all November certifications are complete and signed and ready to be submitted. If not, contact appropriate households for signatures and certification completion.
- **September 25**: Ensure all move-out certifications will not be overwritten by any other certifications. If needed, send necessary certifications early in a file alone to avoid TRACS recording errors.
- **October 1-October 5**: Double check all certifications and ensure all the appropriate certifications are being submitted.
- **October 8 or earlier**: Send remaining TRACS certification files and November voucher via IMAX. If the required transmission is sent this early, the sender will have adequate time to correct any errors before the deadline and resend.
- **October 10**: Deadline for November TRACS certification files and voucher.

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HUD 202D MAT Guide, Appendix G

Example Voucher Acknowledgment Messages and Codes

Code	Condition	Description
VA001	Voucher accepted by TRACS and sent to LOCCS for payment.	THE GENERATED VOUCHER ID FOR (yr-mo): VOUCHER AMOUNT SUBMITTED FOR PAYMENT:
VA005	Delete Voucher from TRACS	VOUCHER DELETE TRANSACTION PROCESSED FOR VOUCHER ID:

Example TRACS Voucher/Payment Status Messages and Codes

Code	Description	Action
VSP10	VOUCHER HAS BEEN ACCEPTED FOR PAYMENT	N/A. Information only.
VSR41	PAYMENT ON VOUCHER IS PENDING CONRACT RENEWAL IN LOCCS. FOR TCA ADMINISTERED CONTRACTS, PAYMENT ON VOUCHER IS PENDING ACC RENEWAL.	For direction, contact the HUD office that authorizes your payment.
VST02	PAYMENT ON VOUCHER IS PENDING REVIEW OF TENANT DATA SUBMISSIONS. PAYMENT ON VOUCHER IS PENDING DUE TO INSUFFICIENT TENANT DATA/LATE RECERTS.	For direction, contact the HUD office that authorizes your payment.

HUD 202D MAT Guide, Appendix G

The voucher contains not only current resident billing information but also any adjustments that must be made to any resident record or other transactions that must be submitted to TRACS.

***Example**: The Lloyds live at Happy Valley Apartments, and their recertification date is 10/1. The manager completed the certification on 8/25. The certification was submitted to TRACS with the 10/1 voucher no later than 9/10. However, Happy Valley Apartments had a gross rent change effective on 10/1 that was not completed until 9/25. Because the gross rent change and the Lloyd family's annual recertification were effective on the same date, the recertification was corrected to reflect the correct gross rent amounts and will need to be sent to TRACS with the 11/1 voucher. The voucher will show an adjustment for this household for the correct tenant rent and HAP amounts for 10/1 and 11/1.*

Occasionally, owners may need to make other adjustments on the voucher for items such as:

- Utility reimbursements
- Move out adjustments
- Contract splits
- First and last vouchers
- Other miscellaneous accounting adjustments requested by the owner or at the direction of HUD

All miscellaneous adjustment will be listed on the voucher.

RAD PBRA Voucher Payments

RAD properties will not begin to receive voucher payments through the multifamily TRACS system until January 1 of the year following the conversion. The time period from the conversion date through December 31 is called the year of conversion.

Example: If the HAP contract is effective 11/1/2019, the property will not receive HAP voucher payments until 1/1/2020.

During the year of conversion, the owner must submit vouchers with a $0 payment request (a zero-sum voucher). In order to make the amount zero, a miscellaneous accounting request is created. All vouchers submitted during the year of conversion must be zero sum. TRACS will not accept a voucher unless it is zero sum during this time period.

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THE 50059 AND 50059-A

The following 50059s are full certifications: Move in (MI), Initial (IC), Annual (AR), and Interim (IR). These are monthly activity transmission (MAT) 10 records in TRACS and are the most important data files submitted to TRACS. Any time an error needs to be corrected on a 50059 certification, the owner must start with the last MAT 10 file accepted by TRACS and work from there to complete the correction. A resubmission of the last full certification acts as the new baseline for the family. All 50059s must be signed and dated by the owner and all household members who are 18 or older. All required parties must sign and date the 50059 on or before the certification effective date, but they do not all have to be on the same date. The owner must not submit a 50059 to TRACS until all required members have signed and dated the form. If any required party does not sign the 50059, the family is ineligible for subsidy. System-generated signature dates are not acceptable, each required party must physically date the form when it is signed. There are a few exceptions for extenuating circumstances under which a household member is unable to sign. There are specific reason codes that are listed in the MAT User Guide, Chapter 5 that the owner must use when submitting the 50059 to TRACS. When the household member is able to sign, a corrected 50059 must be submitted, with the signature dates.

- Examples include:
  - Hospitalization
  - Deployment
  - Nursing care
  - Students away at college
  - Other reasonable accommodations

The following 50059-As are referred to as partial certifications: Move-Outs (MO MAT 40), Gross Rent Changes (GR MAT 70), Unit Transfers (UT MAT 70), and Terminations (TM MAT 65).

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REPAYMENT AGREEMENTS

HUD 202D MAT Guide, Chapter 4

With the implementation of TRACS 202D, owners now track repayment agreements on a new section of the voucher and submit this information to HUD/CA on a monthly basis. There are two types of repayment agreements: money being paid back by a resident as a result of misreporting and money being paid back by an owner as a result of an owner error. Resident and owner repayment agreements used to be accounted for on the voucher through a miscellaneous accounting adjustment record, but with the implementation of TRACS 202D, these transactions are now reported on a new version of the HUD 52670-A, Part 6 and sent to TRACS in a new MAT30 record.

The proper way to address retroactive adjustments that result in repayment agreements is to show the full amount of the adjustment on the voucher and then reduce the amount of the adjustment each month by submitting repayment agreement record types of either tenant (T) or owner (O).

As the resident makes payments, the owner will enter each payment on the voucher as repayment agreement records. The owner will enter one request for each resident making a payment in the voucher each month. If the resident is making payments for multiple agreements, multiple repayment agreement records are submitted. The amount paid to HUD may be the amount collected less allowed collection expenses based on HUD guidance. Owner repayments are handled in a similar way, but there is never any reduction in the payment for expenses incurred.

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RAD Conversions

When converting existing household to RAD, an Initial Certification (IC) must be created and submitted to TRACS. The total tenant payment (TTP) that was in place on the last 50058 before conversion must match the TTP on the IC 50059. In-place residents at the time of conversion retain the recertification date listed on the last 50058. The information used for the IC is the information taken from the last 50058. However, some information that is required to be submitted on the IC 50059 is not collected and included on the 50058. These fields must be completed by the owner when creating the IC 50059. The information that is not included on the 50058 but must be entered on the IC 50059, includes:

- Subsidy type
- Imax ID
- Previous household code
- Displacement status code
- Effective date
- Anticipated voucher date
- Project move-in date
- Certification type
- EIV indicator
- Household citizenship
- TTP
- Extenuating circumstances code
- Previous subsidy type
- Unit transfer code
- Security deposit
- TTP at RAD conversion
- Family has mobility disability
- Family has a hearing disability
- Family has a visual disability
- Number of nonmembers
- Expected family addition
- TTP override
- Rent override
- Eligibility check not required

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In order to move a family from PIH and PIC, the owner must:

- Send an end of participation (EOP) for each household to PIC
- Create a new IC 50059 and send to TRACS
- Move required documents from PIH file to multifamily (MF) file

The owner must not enter any information under debts owed in EIV at EOP.

When creating the conversion IC 50059 for each household, the owner must set the "do not check eligibility" code. Families are not rescreened at conversion, and over-income families continue to qualify.

In-place tenants at the time of conversion are protected from rent increases on the date of conversion. If their TTP would be different from the 50058 on the IC 50059, the owner must use the rent override option to enter an alternate TTP and TRACS will accept it. The owner must check to make sure the override flag is set only for the IC conversion process, and the default PBRA calculation rules will apply after conversion.

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RAD AR/IR effective date:

There will be times where the effective date of the new HAP contract and the effective date of the residents next Annual (AR) or Interim (IR) will be the same for an individual household.

If this is the case, the owner cannot skip the recertification process. Remember the RAD conversion rules state that the TTP at conversion must match the TTP on the last 50058 for the household.

To stay in compliance with HUD regulations, the owner must do the following:

- Create the conversion initial certification (IC) using the TTP from the last 50058 for the household.
- Determine if rent phase-in will apply and make note in the file/tracking system.
- Obtain signatures from all adult household members.
- As the O/A, sign and submit to TRACS.
- Confirm that TRACS received the submission and that there are no TRACS errors to resolve for this household.
- Conduct a Correction to the IC (CR to the IC) using the new information the O/A has verified for the AR or IR that is due.
- If rent phase-in applies, complete the rent phase-in calculations using the TTP from the IC (before correction). If there was an income decrease, this process may end the phase-in for this household.
- Obtain signatures from all adult household members on the corrected IC.
- As the O/A, sign and submit to TRACS.
- Confirm that TRACS received the submission and that there are no TRACS errors to resolve for this household.

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Noncitizen Rules in RAD

HUD has stated that the prorated rent rules for mixed families only apply to a household that is receiving assistance. For households not qualifying for assistance, the regular calculation rules apply.

FAMILY SELF-SUFFICIENCY (FSS) FOR MULTIFAMILY HOUSING

Notice H 2016-08

Family Self Sufficiency (FSS) is a HUD program that provides incentives and support to help families living in multifamily assisted housing to increase their earned income and reduce their dependence on public assistance programs.

Owners can voluntarily establish an FSS program. Participation in the FSS program is voluntary for families.

24 CFR 887.113
FR Notice 5/17/22

Owners secure commitments of public and private resources for the program's operation, develop the FSS Action Plan (must be HUD-approved) and implement the program. Owners may access funding from any residual accounts for the property to cover reasonable costs associated with the operation of the FSS program, including hiring an FSS coordinator or coordinators. As stated in the final rule published May 17, 2022, HUD will also make funding available through notices of funding opportunity to fund Multifamily FSS.

FSS families are referred to services and educational opportunities that can lead to improved employment and earned income. Such services might include child care, transportation, education, job training, employment counseling, financial literacy, and homeownership counseling.

Families work to develop goals that will help them make progress toward self-sufficiency within a five-year period. Goals may include education, specialized training and job readiness, placement, and career advancement activities. The HOH must sign a contract of participation (CoP) with the owner, for up to five years. Owners may change the HOH on the 50059 to the household member responsible for the CoP. As long as the HOH participates, other adult household members may also participate. Goals for each participating family member are set out in Individual Training and Service Plans (ITSP) that are part of the CoP.

The owner establishes an interest-bearing escrow account for families, with separate accounting for each family. The escrow account is funded by HUD through adjustments to HAP. If family members' earned incomes and rental payments increase while participating in the FSS program, the owner will credit the increased rent amount caused by the increase in earned income to the family's escrow account.

Once a family successfully completes the program, they may access the escrow funds and use them for any purpose. Successful completion includes all family members being free of welfare (TANF) for at least a year prior to expiration of the CoP; fulfilling all obligations under the CoP; remaining in compliance with the lease; and the HOH must have sought and maintained suitable employment. There is no minimum employment period.

24 CFR 984.305(f)(2)

Forfeited escrow must be used for the benefit of FSS participants for the following eligible activities:

- Support for FSS participants in good standing, including but not limited to transportation, child care, training, testing fees, employment preparation costs, and other costs related to achieving obligations outline in the CoP.
- Training for FSS coordinators.
- Other eligible activities as determined by HUD.

Such funds must not be used for salary or fringe benefits of FSS coordinators, general administrative costs of the FSS program, for HAP expenses, or other activities HUD determines are ineligible.

24 CFR 887.105(a)(4)

When a program coordinating committee (PCC) is available, owners must work with that PCC or create their own, either by themselves or in conjunction with other owners.

24 CFR 887.107

An owner may enter into a cooperative agreement with a local PHA or another owner that operates an FSS program. Owners that enter into cooperative agreements must:

- Open any FSS waiting lists to all eligible families residing in the properties covered by the cooperative agreement.
- Provide periodic escrow amounts to the FSS program coordinator for FSS families covered by the agreement. The agreement must provide that each other is responsible for managing the escrow accounts of their participating families and set forth the procedures for sharing escrow information between the PHA and the owner.
- Clearly specify the terms and conditions of the agreement and include a process for PHAs and owners to communicate with each other about changes in their action plan.

24 CFR 984.201(e) and (f)

An owner who wishes to operate a joint program with a PHA or another owner may combine their resources with one or more PHAs or owners to deliver supportive services under a joint action plan. A PHA or owner may also submit one action plan that covers all applicable rental assistance programs that the FSS program serves (e.g., Section 8 vouchers, PBRA, Mod Rehab, and public housing).

RAD PBRA: Family Self Sufficiency

Current Public Housing and Housing Choice Voucher (HCV) Family Self-Sufficiency (FSS) participants will continue to be eligible for FSS at the time their housing is converted under RAD. All owners will be required to administer the FSS program for current participants until either those households graduate or leave the program. The PHA and new owner may collaborate, allowing the PHA to continue to operate the FSS program for currently participating households. The PHA will continue to provide the necessary services to the participants, while the owner will be required to submit quarterly reports to HUD, manage the escrow accounts, and create monthly Owner/Agent Request (OARQ) adjustments to the TRACS HAP voucher.

Please note that following conversion, public housing grant funds cannot be used to provide services to new participants who lived in the property prior to conversion. Once the RAD transaction is complete, all current residents become part of the PBRA program.

For example, Ms. J moved into the public housing property in May 2018. She has never participated in an FSS program. The property completes its RAD transaction and conversion takes effect in February 2019. Ms. J decides to enroll in the FSS program in September 2019. Public Housing grant funds cannot be used to provide service coordination to Ms. J. The owner would have to find other funding sources to pay for the hours of service coordination provided to Ms. J once she joins the program.

Once the property is converted, the owner must notify HUD at MF_FSS@hud.gov with the unit number, head of household's last name, and start and end dates of the contract of participation (CoP) for all current FSS participants. This initial notification is required until modifications can be made to TRACS. HUD staff will retrieve the remaining FSS participant information from the PIH Information Center (PIC).

Once units are converted to PBRA, the owner may also establish a new Multifamily FSS program, pursuant to the requirements of 24 CFR Part 984, the participants' CoP, and Notice H 2016-08, Family Self Sufficiency Program in Multifamily.

Upon conversion, already escrowed funds for FSS participants shall be transferred into a PBRA escrow account and be considered PBRA funds, thus reverting to PBRA if forfeited by the FSS participant or the owner. All forfeited escrow account funds must be remitted to HUD. If the owner has established an FSS program, forfeited escrow account funds must be used to benefit FSS participants, as specified in 24 CFR 984.305(f)(2). Please see Notice H 2016-08 for additional details, including FSS coordinator funding eligibility under a RAD conversion. Owners can refer to Notice H 2016-08 or contact their local HUD office with questions.

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RAD PBRA: Family Self Sufficiency (cont.)

The escrow accounts for households participating in the program must be calculated in accordance with the PIH regulations at 24 CFR Part 984. During the Year of Conversion, the FSS escrow account is funded from PIH as part of the conversion. For subsequent years, an owner is permitted to obtain the escrow amount by creating monthly OARQ adjustments on the property's HAP voucher and then must deposit the money in the corresponding escrow account. In order for HUD to identify information relating to FSS, and until future updates can be made to TRACS, all FSS OARQ adjustments must indicate the voucher month and year for the escrow credit, unit number, head of household's last name, and the words FSS participant in the comments section. The owner shall deposit the FSS account funds of all participating families into a single depository account.

Current Resident Opportunity and Self Sufficiency-Service Coordinator (ROSS-SC) grantees will be able to finish out their current ROSS-SC grants once their housing is converted under RAD. However, once the property is converted, it will no longer be eligible to be counted towards the unit count for future public housing ROSS-SC grants nor will its residents be eligible to be served by future public housing ROSS-SC grants.

If the PHA converts their entire public housing and Housing Choice Voucher program stock to PBRA, then the owner must continue to administer the FSS program and honor all executed CoPs for current FSS participants. The owner is not required to enroll new participants but may choose to do so following the guidance found in Notice H 2016-08. Additionally, since the PHA has gone out of business, the owner is no longer eligible to apply for future funding under the PIH Grant Program. Previously, there was no grant funding available for Multifamily assisted housing owners. However, the FSS Final Rule, effective June 16, 2022, has stated that future notices of funding opportunity (NOFOs) will make FSS grant funding available for Multifamily FSS. Further, the final rule added a provision at 24 CFR 984.113(a) stating that owners may also or alternatively use residual receipts to pay for reasonable FSS program operation costs, including hiring an FSS coordinator or coordinators for their FSS program.

See the PBRA Quick Reference Guide for sample worksheets.

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Section 4 Special Claims

HUD Special Claims Processing Guide

HUD recognizes that owners of affordable housing have a potential financial risk because of the limitation on security deposits and the need to adhere to waiting list requirements. Therefore, owners may be reimbursed for their financial loss through the special claims process. Special claims are a small reimbursement from HUD to the owner for either vacancy loss or damage to the unit or rent that has not been paid by the resident. While special claims are optional, it is beneficial to the financial health of the property to complete them when the property has a qualifying event.

ELIGIBILITY

Most Multifamily property types are eligible for both vacancy after rent-up and unpaid rent/damage claims. Owners have 180 days from the date a unit was ready for occupancy to submit these types of claims. The eligibility period for the claim starts the day the unit was ready for occupancy (rent-ready), which is the day after all work, cleaning, and inspections are completed.

Special Claims Processing Guide, Figure 1-1

Special Claim Types	Eligible Property/Contract Types
Vacancies	Section 8, Section 202/8, Section 202 PAC, Section 202 PRAC, Section 811 PRAC
Debt service claims	Section 8NC/SR (New Regulation contracts) RHS Section 515/8, Section 202/8, Section 202 PAC, PDSA/8
Unpaid rent/damages	Section 8, Section 202/8, Section 202 PAC, Section 202 PRAC, Section 811 PRAC

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VACANCIES AFTER RENT-UP

Special Claims Processing Guide, Chapter 3

A special claim for vacancy loss is compensation to the property owner for the loss of rental income of a unit that was previously occupied by an assisted resident but has been vacant due to circumstances beyond the owner's control. Owners are eligible to receive 80 percent of the contract rent for up to 60 calendar days for each vacant unit. For Section 202 and 811 PRAC properties, the claim may not exceed 80 percent of the contract rent for up to 60 calendar days for each vacancy.

The requirements for vacancy claims include:

- Upon learning of a vacancy the owner transmits the move-out data to TRACS.
- The former resident was receiving rental assistance at move-out; or if the rental assistance was terminated prior to move-out, the assistance was terminated based upon the tenant's failure to comply with his/her responsibilities to fulfill program requirements, such as:
  - Failure to provide the needed information relating to family composition and income.
  - Failure to provide social security numbers.
  - Failure to sign consent forms and or verification forms.
  - Failure to sign the form HUD-50059.
  - Failure or inability to establish citizenship or eligible immigration status.
  - Failure to move to a different-sized unit within 30 days after the owner notifies him/her that the unit of the required size is available.
- In projects that are partially assisted, if a resident's assistance is terminated or the resident moves out of a unit and assistance is given to another unit, effective the day after the termination or move out, the owner is not entitled to a special claim for vacancy loss.
- The owner is eligible to submit a special claim only for units that are in decent, safe and sanitary condition and are available for occupancy during the vacancy period in which the payments are claimed. Vacancy loss claims may not be paid for the days a unit is being prepared for re-occupancy.

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- The owner has taken and continues to take all feasible actions to fill the vacancy, including contacting any applicants on the waiting list and/or advertising the availability of the unit in accordance with Fair Housing and Equal Opportunity requirements in HUD Handbook 4350.3, Chapters 2 and 4.
- The owner has not rejected applicants, except for good cause in accordance with the owner's Tenant Selection Plan.
- By signing form HUD-52671-C, the owner certifies they have not caused the vacancy by violating the lease, the contract, or any applicable law, and that they have complied with all HUD requirements on termination of tenancy listed in HUD Handbook 4350.3, Chapter 8.

UNPAID RENT AND DAMAGE CLAIMS

Special Claims Processing Guide, Chapter 5

A special claim for unpaid rent, resident damages, and other charges due under the lease is a reimbursement to a property owner for a former resident's failure to pay the monthly rent, other charges due under the lease, or for damages caused by the negligence or abuse of the former resident.

The total claim paid for both unpaid rent and damages may not exceed one month contract rent (rent that was in effect on the date of move out) minus the security deposit.

> ***Example****: The owner currently has $65 from the tenant for the security deposit and interest. The tenant left owing $300 in unpaid rent and $200 in damages. The owner is unable to collect payment from the tenant for the unpaid rent or damages. The tenant's contract rent when they moved out was $400. HUD will pay up to $335 which is the contract rent minus the security deposit and interest.*

The requirements for unpaid rent and damage claims include:

- The former resident was receiving rental assistance at move-out; or if the rental assistance was terminated prior to move-out, the assistance was terminated based on the resident's failure to comply with his or her responsibilities to fulfill program requirements, such as:
  - Failure to provide the needed information relating to family composition and income.
  - Failure to provide social security numbers.
  - Failure to sign consent forms and or verification forms.
  - Failure to sign the form HUD-50059.
  - Failure or inability to establish citizenship or eligible immigration status.
  - Failure to move to a different-sized unit within 30 days after the owner notifies him or her that the unit of the required size is available.
- In projects that are partially assisted, if a resident’s assistance is terminated or the resident moves out of a unit and assistance is given to another unit, effective the day after the termination or move out, the owner is not entitled to a special claim for unpaid rent, resident damages, or other charges.
- The owner collected the appropriate security deposit from the resident. If the owner did not, the claim will be reduced by the amount of the security deposit the owner should have collected from the resident.

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- By signing form HUD-52671-A, the owner certifies they have billed the residents for unpaid rent and have taken all reasonable steps to collect the debt, including:
  - A certified letter has been sent to the resident detailing the unpaid rent and other charges, the disposition of the security deposit, demanding payment, and advising the resident that failure to pay the sums due will result in the owner hiring a collection agency to collect the debt. The letter must include a notice to the resident that they have a right to discuss the charges with the owner.
  - If the resident did not make payment on the monies owed, other efforts were attempted to collect the monies (i.e., engaging a collection agency).
- State and local law must permit such amounts to be deducted from the resident's security deposit.
- "Other charges" due under the lease are to be included with unpaid rent. Allowable "other charges" due under the lease include:
  - Failure to return keys
  - Late fees, if allowable under the lease and state or local law
  - Any charges for damages during tenancy that the resident was previously billed for and that were still unpaid at move-out
- "Other charges" due under the lease that are not allowed include:
  - Legal fees
  - Collection agency fees
  - Unpaid utility bills left by the resident
  - Cost of photographing unit to prove resident damage
- Section 202/8, Section 202 PAC, Section 202, and Section 811 PRAC leases do not allow for charges for late fees, returned checks, or unreturned keys. Therefore these charges are not allowable as special claims.

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- By signing form HUD-52671A the owner certifies they have determined the damage claim was due to the resident's negligence or abuse.
- Only extraordinary repairs and/or replacements should be claimed.
  - Appendix 5C of the Special Claims Processing Guide provides a document, “Resident Damages versus Normal Wear and Tear,” that owners should consult when requesting a special claim for unpaid rent and damages.
- The owner may not request reimbursement on the damage claim for items where reimbursement was made from the Reserve for Replacements or Residual Receipts accounts or by insurance coverage. An owner should apply for insurance reimbursement prior to submitting a claim to HUD. If an owner receives special claims reimbursement for damage covered by the owner's insurance after HUD has already paid, the owner is required to repay HUD.
- Any damages other than those billed during tenancy or found and billed at move-out are claimed as damages on the claim form.
- Failure to provide the resident with an itemized listing of damages will result in the denial of the claim.

CLAIM SUBMISSION AND REVIEW PROCESS

The owner is responsible for submitting all required documentation and checklists to HUD/CA with the request for the special claim in a timely manner. It is then the responsibility of HUD/CA to process the claim in a timely manner and alert the owner of approval, reduction, or denial of the submitted claim.

A checklist of required documentation must be used and submitted with each claim package to ensure all required documentation is submitted with the claim form. Appendices 2B, 3B, 4B and 5B of the Special Claims Processing Guide have sample checklists for each claim type. Local CAs also typically have checklists as well.

Each claim package must also include supporting documentation that is slightly different for each claim type. The following is a list of required documents by claim type.

VACANCY:

Special Claims Processing Guide, Appendix 3

- A copy of the signed HUD-50059 completed at move-in for the former resident that shows the amount of the required security deposit
- Documentation that the appropriate security deposit was collected from the resident
- A copy of the security deposit disposition notice provided to the resident which shows:
  - Move-out date
  - Amount of security deposit collected
  - Amount of security deposit returned
  - Any charges withheld from the deposit for unpaid rent, tenant damages or other charges due under the lease
- Documentation that verifies the date the unit was ready for occupancy
- Copy of the waitlist from which the resident was selected
- If the unit was not filled from the waitlist, documentation of marketing efforts must be included, such as copies of advertising or invoices for advertising expenses that substantiate the date marketing occurred in accordance with the AFHMP

UNPAID RENT AND DAMAGES:

Special Claims Processing Guide, Appendix 5

- Completed HUD-52670-A, Part 2
- Completed HUD-52671-A
- If the claim is for both unpaid rent and other charges and tenant damages for the same unit and tenant, the claim for tenant damages must be calculated on the same HUD-52671-A and filed as one claim

- Unpaid rent and other charges:
  - Documentation, such as a copy of the original lease or a copy of a security deposit receipt indicating the amount of the security deposit collected from the tenant
  - A copy of the signed HUD-50059 completed at move-in
  - A certified letter sent to the resident detailing:
    - Unpaid rent and other charges
    - Disposition of the security deposit
    - Demanding payment and advising the resident that failure to pay the sums due will result in the owner/agent hiring a collection agency to collect the debt
  - Documentation that the matter was turned over to a collection agency and that collection agency attempted to collect the debt
  - Documentation of other charges that were due under the lease that document the charges were approved by HUD
- Tenant damages
  - In addition to documentation for unpaid rent and other charges:
    - Copies of the signed and dated move-in and move-out inspection reports
    - Itemized list of damages
    - Breakdown of costs to repair the damages, which may include invoices, receipts, copies of work orders or maintenance records supporting dates work was completed
    - A copy of the security deposit disposition notice provided to the resident
    - The owner must certify the submitted claim is not the result of normal wear and tear or routine maintenance
- Additional documentation is required for unit transfers. Documentation stating the reason for the transfer to another unit and evidence the security deposit was transfered or that a new security deposit was secured is required.

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Special Claims Processing Guide, Chapter 2

Regardless the type of claim submitted, all claim packages must include a completed HUD-52670 and HUD-52671; different sections of the HUD-52671 will be completed depending on the type of claim being submitted.

Claim Type	Completed HUD-52670	Completed HUD-52671
Vacancy During Rent-Up	Part 2	Section B
Regular Vacancy	Part 2	Section C
Debt Service	Part 2	Section D
Unpaid Rent/Damages	Part 2	Section A

Within 30 calendar days from the date of receipt of an incomplete claim package, HUD/CA will either return the incomplete package or contact the owner by email, fax, or telephone requesting the missing items.

The owner must then resubmit the complete claim package within 30 calendar days from the date of the letter. If HUD/CA elects not to return the package but to request via email, fax, or telephone that the owner fax or mail the missing documents, the missing documents must be received by the date specified by HUD/CA. Any claims received after the specified date will be denied and ineligible for resubmission. Owners are entitled to one original submission, one resubmission, and one appeal for each special claim.

Timelines to keep in mind for the most common special claim submissions include:

Regular Vacancy Loss	Unpaid Rent and Damages
Must be submitted to HUD/CA within 180 calendar days from the date the unit was rent-ready	The claim forms must be received by HUD/CA within 180 calendar days from the date the vacated unit was available for occupancy.
The claim period may not exceed 60 calendar days	HUD/CA has 30 days to respond to each submission, re-submission, and appeal
HUD/CA has 30 days to respond to each submission, re-submission, and appeal	
On the 61st calendar day or the day after occupancy of a new resident, whichever comes first, the claim package should be sent to HUD/CA	

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For all special claim types, the owner must request payment for any approved claim within 90 calendar days from the date of the approval decision. Most owners will request the claim on the next voucher processing to ensure compliance with the 90-day deadline.

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Section 5 Chapter 10 Post Test

1. By what date must the next month's voucher be sent to HUD/CA to ensure no interruptions to HAP funds?
   a. The 1st
   b. The 10th
   c. The 15th
   d. The 20th

2. Payments received by the owner as part of a repayment agreement should not be recorded on the voucher until the final payment is received.
   a. True
   b. False

3. The owner is required to file special claims.
   a. True
   b. False

4. MAT is a front-end subsystem of TRACS and is the language the owner's software speaks with HUD's secure systems.
   a. True
   b. False

5. For vacancy loss claims, the owner may collect 100 percent of the contract rent for up to 60 days.
   a. True
   b. False

6. When owners make unpaid rent and damage claims, they are eligible to receive one month contract rent minus the security deposit.
   a. True
   b. False

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7. If the owner failed to collect the correct security deposit, the special claim amount will be:
   a. Reduced by the entire amount of the correct security deposit
   b. Reduced by the amount of the security deposit the owner should have collected, but didn't
   c. Denied for failure to collect the correct amount
   d. None of the above

8. If a new household was previously assisted at another property:
   a. The household is not eligible to receive subsidy
   b. The move-in must be submitted to TRACS the same day as the move-out
   c. The household must be moved out of the previous property before they can be moved in to the new property
   d. The household must provide evidence that the previous unit was vacated before they can be moved in to the new property

9. A 50059-A is:
   a. A full certification used only for initial certification (IC)
   b. A partial certification used only for gross rent change (GR)
   c. A partial certification used for move-out (MO), termination (TM), unit transfer (UT), and gross rent change (GR)
   d. A full certification used for move-out (MO), termination (TM), unit transfer (UT), and gross rent change (GR)

10. The owner's legal fees are not allowed to be included as part of unpaid rent when the owner files for a special claim.
    a. True
    b. False

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Notes

CHAPTER 11 Post-Test Answer Keys

CHAPTER 1: OVERVIEW

1. b 2. a 3. b	4. b 5. b 6. d	7. e 8. a 9. b

CHAPTER 2: TENANT SELECTION AND WAITING LIST MANAGEMENT

1. b 2. a 3. a	4. d 5. d 6. a	7. a

CHAPTER 3: ELIGIBILITY

1. b 2. b 3. a	4. a 5. b 6. a	7. b 8. b

CHAPTER 4: INCOME AND RENT CALCULATION

1. b 2. a 3. b	4. b 5. b 6. a	7. a 8. b 9. a	10. b 11. d 12. b	13. a 14. a 15. a

CHAPTER 5: LEASING

1. b 2. a 3. b	4. a 5. b 6. a	7. c 8. b 9. b

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CHAPTER 6: ANNUAL AND INTERIM RECERTIFICATIONS

1. b 2. b	3. c 4. b	5. d 6. a	7. b 8. b	9. c

CHAPTER 7: TERMINATIONS

1. a 2. a	3. b 4. b	5. d 6. a	7. a 8. a	9. b 10. a

CHAPTER 8: ENTERPRISE INCOME VERIFICATION (EIV)

1. b 2. b	3. d 4. b	5. a 6. a	7. b 8. e	9. b 10. b

CHAPTER 9: CONTRACTS, UAS AND RENT INCREASES

1. b 2. a	3. b 4. a	5. c 6. b

CHAPTER 10: TRACS, VOUCHERS, AND SPECIAL CLAIMS

1. b 2. b	3. b 4. a	5. b 6. a	7. b 8. c	9. c 10. a

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