Public Housing Management Master Book

Updated for HOTMA

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FOREWORD

The Public Housing Management Certification Course evolved from the HUD regulations regarding accreditation of Public Housing Managers within a Public Housing Agency.

Nan McKay and Associates, Inc. was the first private company selected by HUD to provide training on these complexities for Public Housing staff to develop professionalism needed in the field.

Based upon our involvement with Public Housing since 1963, we at Nan McKay and Associates feel strongly that the quality of Public Housing Management is a key factor in meeting the nationwide goal of providing a quality living environment for residents of Public Housing.

Public Housing management has become increasingly complex in today's climate. Public Housing was originally constructed to create jobs and provide a good, sound, but temporary living environment for low-income people. Today, Public Housing has become a way of life for many people, rather than a stepping stone.

Managers have to work within laws, regulations and documentation which tax the boundaries of knowledge needed to perform the job well. The manager needs exceptional skills in problem areas which were unheard of in early Public Housing, such as gangs, drugs, and violence. The manager needs “management” skills to be able to problem-solve and prioritize within developments which may need improvements in an era of money shortages, and over which they may have little control.

We feel it is critical to infuse knowledge and skill-building to give people the tools they need, not just to do the job, but to do the job well... to be better today than they were yesterday, and better at the job tomorrow than they were today.

NMA’s mission is to provide quality training in this complex arena, and professional certification that a participant can be proud to have achieved.



Nan McKay
President
Nan McKay and Associates, Inc.

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Glossary

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UNIT 1 Roles and Responsibilities of the Public Housing Manager in the Project-Based Environment

Section 1 Introduction to the Manager's Role

- Regardless of their field, all managers have one thing in common, they *manage.* And they manage the same things:
  - People
  - Functions
  - Processes
  - Problems
  - Priorities
  - Budgets
- The functions and responsibilities of the public housing property manager often mirror those of the property manager in the private sector. Although they must operate within government guidelines, public housing managers should operate as much like a for-profit business as possible.
  - For public housing programs to be financially and socially viable, it is important to recognize and adopt successful private management practices and private sector thinking.
- The public housing manager's role varies with the organizational structure of the housing authority (PHA).
  - In a smaller PHA, the executive director might manage the entire agency and its programs.
  - In a larger PHA, roles may be more specific; for example, the public housing manager might manage only the public housing program and a property services manager might manage maintenance.
  - Regardless of the size and structure of the PHA, the public housing manager wears many hats, often at the same time. It is important to recognize the interdependence of skills, abilities, and varied knowledge.

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Notes

ONLINE RESOURCES

- Links to HUD references mentioned in this master book may be accessed at:
  - http://NMAReferences.com
  - Click the Public Housing Management link at the top of the page to jump directly to the list of links.

Notes

Section 2 Introduction to the Project-Based Environment

- We have seen many changes affecting public housing. Program regulations have grown. Welfare reform has affected low-income families. The housing authority is more embedded in community development. As a result, managing public housing has become one of the most complex jobs in rental housing programs.
- Additionally, the Quality Housing and Work Responsibility Act (the "Reform Act") required HUD to come up with a new method to allocate public housing operating subsidy. This resulted in the operating fund final rule published in the *Federal Register* on September 19, 2005. The rule became effective November 15, 2005, and introduced the asset management model to public housing.
- The transition of public housing to this funding model has accelerated change. Because of this, public housing managers need to be more skilled than ever.
- Note that many PHAs have replaced the term *project* with the term *development*. HUD generally refers to PHA properties organized for the purpose of the asset management model as *developments*. However, there are still some places where HUD uses the term *project*. Where HUD currently uses the term *project*, such as in the term, *project-based management*, we will continue to use that term. Otherwise in this book we will use the term *development*.

PROJECT-BASED MANAGEMENT (PBM)

- The formula for calculating operating subsidy requires project-based accounting, budgeting, and management for PHAs with 250 or more public housing units.

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Notes

- These principles of project-based management (PBM) have shifted the manager's responsibilities in many affected housing authorities; therefore, these principles are woven into subsequent chapters in this book where appropriate. Chapter 12, specifically, provides an overview of budgeting in the public housing program using PBM.
- In accordance with the final rule, the transition period for conversion to the asset management model took place from 2006 to 2011.
  - By 2011 those affected PHAs had to be asset management compliant.
  - During the transition period and continuing, through appropriations bills, Congress increased the minimum size for mandatory compliance to 401 or more units.
- HUD asset management can be thought of as the art of combining the management of the physical property and the management of its financial aspects.
- The asset management model treats each property as its own business within the public housing program. Each property is funded separately and needs to do well in its own right.
- The two components of asset management are:
  - **Project-based management** – the provision of decentralized property management services that are tailored to the unique needs of each property, given the resources available to the property. Project-based management includes budgeting, accounting, maintenance, and property management.
  - **Asset management** – the provision of centralized property management services that are tailored to the needs of the public housing program portfolio as a whole.

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Notes

- Under the operating fund final rule, three things become clear:
  - Those agencies affected by the rule must be compliant with project-based accounting, budgeting, and management;
  - The model is based primarily on HUD's multifamily industry; and
  - The transition has forced the public housing program to operate more like the multifamily industry.
- This course focuses primarily on project-based management. Asset management, the oversight of centralized public housing services and of the portfolio as a whole, is covered in the Public Housing Executive Management seminar.

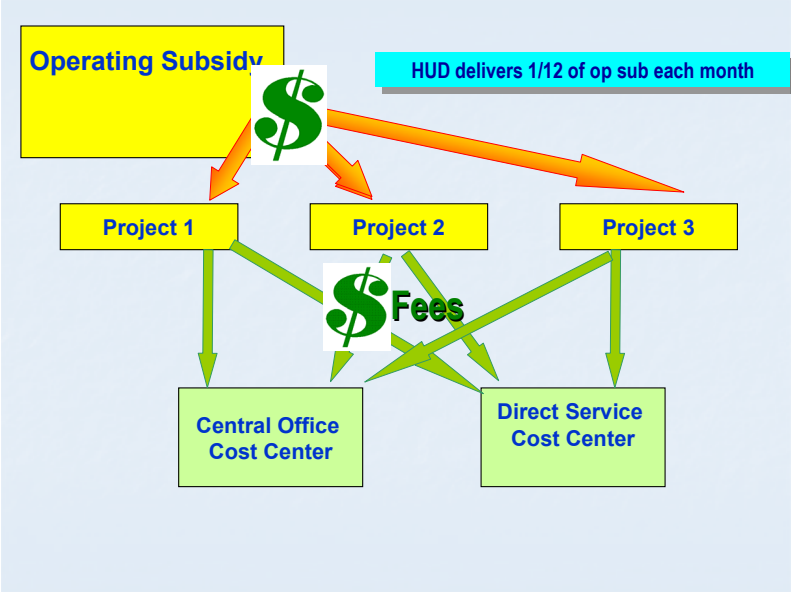
THE CURRENT MODEL FOR PUBLIC HOUSING

- We'll be covering this in more detail in the budget management chapter, but it will help to understand why the operating subsidy formula based on the asset management model was a fundamental shift for the public housing program.
- Historically, the operating subsidy was calculated for all public housing units at an aggregate level. The operating subsidy was allocated to the central office, and the central office decided where the subsidy went—how much to each development, how much to the central office, how much to other functions.
- Under the present formula, subsidy is calculated and allocated to each development. Funding goes directly to the developments, and all other activities (referred to by HUD as cost centers) are supported by fees paid by the developments. In other words, all the money goes to the developments, and the developments have to pay for everything else.

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Notes

- Any service provided to the development that doesn't reside at the development needs to come from a cost center. A cost center is a cluster of activities that indirectly or directly support a development but are not under the direct control of the property manager.
  - Every PHA has at least one cost center, the central office cost center (COCC). The COCC provides indirect services to the development—strategic planning, executive leadership, etc.
  - Any service directly provided to a development that is centrally located (such as centralized maintenance) will support itself by charging the development a fee-for-service for actual services provided.
  - Below is a graphic of the structure of public housing and how the operating subsidy is allocated. The calculation of the operating subsidy and allowable fees will be discussed later in the budget management chapter.



Notes

ASSET MANAGEMENT PROJECT (AMP)

- When we use the terms project or development, we are referring to the asset management project (AMP) defined by your PHA for purposes of project-based accounting, budgeting, and management.
- The AMP could be one property or a grouping of properties. Even if the AMP is a grouping of properties, they may still have separate accounting systems and budgets that will roll up together, but will most likely be managed by the same management team.
- HUD now uses the term development for these groupings.
- Your PHA's accounts will reflect the properties grouped into specific asset management teams.

COMPLIANCE WITH ASSET MANAGEMENT

- Notice PIH 2006-14, issued March 22, 2006, provided guidance on demonstration of successful conversion to asset management.
  - This guidance was intended for housing authorities who would experience a decrease in operating subsidy who, by complying early with asset management, would have their decreases stopped. These PHAs were referred to as "stop-loss" agencies.
- HUD issued more notices providing guidance for the subsequent stop loss applications, the last being Notice PIH 2010-37 for year five.
  - The criteria are nearly identical to the criteria listed for the first year with only a few substantive differences.
- These notices are important because they provide the principles PHAs should apply as best practices.

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- These best practices consist of the following seven criteria:

  1. Project-based accounting

  - PHA produces monthly operating statements for each development – revenues and expenses vs. budget levels, including all fees from the central office cost center (COCC).
    - Includes proceeds from the Capital Fund, energy performance contracts, and other sources.
  - Operating statements must reasonably reflect the financial performance of each development.
    - The sum of the operating statements must equal the total for the PH program.
  - PHA has records to support financials
  - The PHA's board must approve the operating budget for each development.

  2. Project-based management

  - Property management services are arranged or provided in the best interest of the development considering needs, cost, and responsiveness, relative to local market standards

  3. Central office cost center (COCC)

  - All central office fees (property management, asset management, bookkeeping, etc.) must be reasonable.

  4. Centralized services

  - Centralized functions that directly support developments must be funded using a fee-for-service approach or charged at cost to the developments.
  - Each development is charged for actual services received.
  - Centralized services are consistent with the needs of, and are in the best interests of, the development.
  - Centralized service charges should be reasonable based on demonstrated data from the local market.

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5. Review of development performance

- PHA systematically reviews information regarding the financial, physical, and management performance of each development, including utility consumption, and identifies non-performing properties.
- Originally, HUD defined a non-performing property as:
  - PHAS physical score of less than 70
  - Significant crime and drug problems
  - Is below 95% occupancy
  - TARs that exceed 7% of monthly rent roll
  - Would receive a PHAS "D" or lower for unit turnaround and work orders
  - Has utility consumption more than 120% of agency average
  - Has other major management problems.
- For any non-performing development, the PHA should have a management plan that includes a set of recommendations and measurable goals that effectively address the area(s) of nonperformance.

6. Capital planning

- The PHA has a physical needs assessment for each development, and a five-year capital plan for each development that's realistic (expected revenue sources, market, tenancy, and development needs).
- PHA has demonstrated a commitment to an annual reduction in energy and utility consumption through a plan, the use of HUD's incentives, or the use of Energy Star equipment for retrofits.

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7. Risk management responsibilities related to regulatory compliance

- The PHA is at risk if it:
  - Is designated as troubled under PHAS
  - Has any outstanding FHEO compliance findings or a voluntary compliance agreement not implemented
  - Has no current energy audit
  - Has any outstanding IG audit findings more than 6 months old without demonstrated progress
  - Is not in compliance with the ACOP
  - Has not made satisfactory progress under RHIIP/RIM corrective action plans
  - Is not in compliance with Notice PIH 2005-17 (50058) – the public housing reporting rate must be at least 95 percent
  - Is not meeting statutory capital fund obligation and expenditure deadlines, or
  - Has any other major compliance deficiency.
- HUD may consider a PHA's progress and other extenuating circumstances.

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Notes

Section 3 Organizational Policies

- There are many PHA policies with which the property manager must be thoroughly familiar in order to manage the program and ensure consistent compliance with HUD regulations, PHA policies, and reasonable practices. We will discuss here the policies that directly relate to the property; however, the manager needs to have access to, know, and comply with:
  - The PHA Plan
  - The Admissions and Continued Occupancy Policy (ACOP)
  - The public housing lease
  - The PHA's personnel policy
  - The PHA's ethics policy
  - The PHA's risk management policy
  - The PHA's emergency procedures
  - Job descriptions for all site employees
  - Utility allowance schedule
  - The PHA's disposition policy
  - The capital fund plan – five-year-plan and physical needs assessment
  - The PHA's procurement policy
- The key documents that identify the PHA's policies and procedures of public housing operation are the PHA Plan, the Admissions and Continued Occupancy Policy (ACOP), and the public housing lease.

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THE PHA PLAN

- Each PHA submits to HUD a 5-year plan every five years. Qualified PHAs under HERA[1] are exempt from the annual plan requirement. All PHAs must conduct a public hearing annually.
- The purpose is to provide local accountability and an easily identifiable source by which public housing residents, tenant-based program participants, and other members of the public can access basic PHA policies concerning its operations, programs, and services.
- The PHA plan contains the discretionary policies of the various components or elements (for example, waiting list preferences from the ACOP), and not the statutory or regulatory requirements of these components.

ADMISSIONS AND CONTINUED OCCUPANCY POLICY (ACOP)

- The ACOP is the PHA's principle statement of the policies to be used in the administration of the public housing program.
- The ACOP and revisions must be formally adopted by the board of commissioners. The ACOP does not have to be approved by HUD, but must be available for audit. The purpose of the ACOP is to provide consistency of administration, ensure compliance with HUD regulations, provide a "roadmap" for operations for staff, and to prevent misunderstandings between PHA staff and residents.

1. A *qualified PHA* under HERA is one in which the sum of housing choice vouchers and public housing units is 550 or fewer, and the PHA is not considered public housing "troubled" or failed under SEMAP for the last 12 months.

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- ACOP policies must meet the requirements of HUD regulations, civil rights and fair housing laws, the Annual Contributions Contract (ACC), and state and local laws.
- The PHA must post copies of the admission policies in each office where applications are received, and must provide the pertinent portion of its policies to each applicant and tenant who requests it.

Notes

Notes

Section 4 Roles of the Public Housing Manager

- All public housing managers fill the following roles:
  - Leader
  - Administrator
  - Property manager
  - Human resources
  - Customer service
  - Marketing

LEADERSHIP

- Leadership is more than a position. A leader has a vision and the ability to articulate that vision, establish goals and objectives that are both challenging and achievable, and build competence and a team approach.

ADMINISTRATOR

Internal Relationships

- As a site manager, your administrative functions include the coordination, integration, and implementation of resources to make the residential property run smoothly and efficiently.
  - Your administrative knowledge, skills and abilities include mentoring and supervising of people, knowledge of HUD regulations (including fair housing laws), state and local landlord/tenant law, building and maintenance codes and inspection standards, finance and budgeting, leasing, record-keeping, lease enforcement and legal issues pertaining to termination.
- By establishing strong working relationships at all levels of the organization, you ensure that the public housing program is working with others doing work that is important to the success of your property and the program.

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Notes

- As a public housing manager, you must manage relationships with staff you supervise, other public housing staff, other managers, the executive director, and the board of commissioners. Although the executive director reports directly to the board, you may be needed at board meetings to answer the board's questions and concerns.
- Building rapport and a reputation for fairness and hard work gives you the basis for asking for support when you need it. Cooperation is essential to your success and the success of the agency.
- The executive director relies heavily on you for current program information, including an accurate assessment of property performance. Performance includes occupancy rates, waiting list management, collection of amounts owed by tenants, lease enforcement, physical condition, and staff competence.
- The executive director will expect you to model a loyal and professional attitude, define realistic expectations for staff, manage within budget, and provide recommendations for best-practice strategies.

External Relationships

- The external relationships a public housing manager must foster and develop include resident families, community-based service providers, local government, the judicial system, and HUD.

Resident families

- The public housing manager is responsible for establishing the tone of the relationship between the agency and program applicants and residents.
- By exhibiting and demanding compassionate, quality service for families, you strengthen the program.

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Notes

Community-based service providers

- Before welfare reform, many PHAs overlooked the importance of helping families gain the knowledge, skills and abilities to move from welfare to work, and from entry-level work into living-wage work.
- Building relationships with other community service providers is crucial to achieve this goal. Many of these providers employ highly skilled professionals and bring innovative programs into public housing sites.
- Economic self-sufficiency will be explored in detail in Unit 11.

Local government

- It is essential that local officials be aware not only of the program you provide but also the challenges you face in administering public housing.
- In an era of welfare reform and limited support for government assistance, you must demonstrate that the public housing program serves a broad constituency – working families, the elderly, veterans, and people with disabilities – and that the program is a help to families attempting to move off government dependence.
- In many communities, rents are so high that semi-skilled and even skilled workers such as licensed practical nurses, day-care workers, police persons and teachers—all essential to the community —do not make enough money to take care of their families without housing assistance.

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The Judicial System

- Your housing agency may have legal counsel on staff, or may retain a landlord/tenant attorney to process your evictions.
- It is essential that you work closely with legal counsel to promptly terminate the lease when a resident family is unable or unwilling to uphold the terms of the lease.
- The attorney needs to thoroughly understand the mandates of the public housing program, your lease and any amendments or revisions you make to the lease.
- It is also essential that you educate your hearing officers, judges, and magistrates. In an environment of legal aid advocacy and increasing homelessness, many judges are loathe to evict any low-income person.
- Court decisions interpret the application of laws and can set precedent on landlord-tenant law.
- Education about the requirements and mandates of the public housing program will assist the judicial system in keeping public housing a safe environment for your families.

Department of Housing and Urban Development

- HUD is responsible for funding and overseeing housing agency operations. Public housing managers must establish working relationships with their local HUD representatives and be familiar with the various program centers of HUD headquarters.

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- HUD requires housing agencies to submit a number of reports and forms including:
  - Budgets and other financial data
  - PIC documents
  - Progress reports
  - PHA Plan, including any revisions to discretionary policies in the Admissions and Continued Occupancy Policy

PROPERTY MANAGEMENT FUNCTIONS

- The property manager is the person responsible for the development. In the PBM environment, each development is treated as a business in its own right. Property management is the art of combining the management of the physical property and the management of its financial aspects to achieve the goals of the housing authority.
- Project-based management is more decentralized in property management services; in other words, services centered at each property that are tailored to the unique needs of each property, given the resources available to the property.
- Property management requires management of rent streams, property values, physical space, residents, and staff of the property. The information and reports provided by the property manager should reflect financial and non-financial outcomes.
- In the HUD multifamily industry, property manager duties typically include waiting list management and lease-up, rent determination and collections, unit inspections, oversight of routine maintenance, marketing and outreach, lease enforcement, budgeting at the property level, financial reporting at the property level, purchasing at the property level, resident relations, and protective services.

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Human Resources

- Developing and retaining a well-trained, competent and committed onsite team is critical to the success of any property.
- The site manager may have direct human resources functions, such as the hiring of employees, performing performance evaluations, and making decisions regarding promotions and disciplinary actions.
  - However, even if not directly responsible for these functions, effective day-to-day supervision, training, and mentoring are critical factors for the success of the property and the property manager.
- The manager must model leadership, project an enthusiastic and positive attitude, and communicate well in order to create a motivated team. One of the most important human resources roles the public housing manager plays is developing a diverse team of talented and committed people.
- As a supervisor, the manager is responsible for ensuring that:
  - Positions are filled for all program areas. A major challenge is to keep all the program functions covered during maternity leaves, vacations, sick days, personal days, leaves of absence, and staff turnover – and do it within the budget for salaries and temporary services.
  - New employees receive an orientation and comply with PHA policies.
  - Skill sets (knowledge, skills, and abilities) are well-defined for each position, staff's skill sets are measured and monitored, and any gap is addressed through training or other action, so that employee performance contributes to the viability of the property, the portfolio, and the agency.

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Customer Service

- Customer service is an attitude that shows through and illuminates activities. The essence of customer service is how you communicate and establish relationships with those you serve. "Relationship" refers to the quality of the transaction between you and your customer at a point of contact. Each point of contact in the housing process can be viewed as a "transaction."
- A corporate value of customer service communicates that policies will be applied fairly, firmly, and uniformly with all residents.
- Public housing exists in a competitive environment and must develop policies and strategies to attract and retain families.
- Public housing is a business, albeit a public, nonprofit business, and it is good business to provide good service.
- One of the best ways to demonstrate good customer service is through timely responses to resident repair and maintenance requests.
  - All service requests should be acknowledged as to when the work will be done if it cannot be done right away.
  - The level of resident satisfaction increases with prompt service and accurate information.
- Ultimately, good customer service fosters resident retention.

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Marketing

- Marketing is typically either a centrally-located function or not considered at all in many PHAs. However, if properties are to be accountable for viability, units must be competitive in the actual marketplace, and outreach must be well considered and active.
- Outreach to your community is an important part of marketing because it educates the public about:
  - The housing authority as an integral partner in the welfare to work movement
  - How stable housing contributes to economic and social stability of families
  - How stable housing provides the community a stable base of workers such as service workers, teachers, nurses, etc.
  - How economic development and self-sufficiency strategies contribute to the community as a whole.
- The more involved an agency is in the community, the more committed partnerships it can form. As a public housing manager, you need to consider yourself a neighborhood partner.
- Asset management is **the** model in the private sector because site managers know their developments better than anyone else. Site managers also know the environment in which their development is located.

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- Site managers may need to be proactive in analyzing their competitors, both subsidized and non-subsidized. Families do have choices. Amenities, condition of the property, neighborhood resources such as park, youth and recreation services, training and educational opportunities, shopping and public transportation, and the ability to have pets all decide how competitive the public housing development is.
- Most people decide on the basis of curb appeal whether or not they want to reside in a particular development; site managers may want to make these kinds of improvement decisions. For example, painting the exterior, improving landscaping, or changing the name of a development that has been turned around are some marketing strategies.

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Typical Functions and Roles in an Asset Management Structure

Role	Level of Responsibility	Normal Areas of Responsibility
Asset Management • Focus is normally on the long-term goals of the organization.	• Entire property portfolio, monitors performance towards goals, provides oversight, and guides investment decisions.	• Establishing the strategic goals of the organization. • Setting performance standards (goals) for property managers and monitoring their progress in achieving standards. • Development activities. • Oversight of the property management function. • Risk management • Ensure the condition of the asset is maintained. • Capital planning and improvements of property. • Financing decisions. • Reporting to the board or other governing bodies. • Contracting for major services. • Unit inspection from a property manager performance perspective. • Human resources • Sale and or other disposition of properties such as demolition.
Property Management • Focus is normally on meeting the short-term goals of the organization.	• Individual development(s)	• Waiting list management and lease-up. • Rent determination and collections. • Unit inspections. • Routine maintenance of units. • Marketing and outreach for a property. • Lease enforcement • Budgeting at the property level. • Financial reporting at the property level. • Purchasing at the property level. • Resident relations. • Protective services.
• In large organizations these roles are usually handled by separate individuals.		

UNIT 2 Organization and Administration of PHAs and Programs

Section 1 History of Low-Income Public Housing

- The first known study of slum conditions in the U.S. was conducted by Congress in 1892. This study of four cities revealed that there was a less than adequate quantity of housing and services available.
- The Great Depression was the beginning of government involvement in private sector areas, including housing. To stimulate recovery from the Depression, Congress passed laws to provide jobs through the construction of public buildings and developments, which included housing for the working poor.
- The climate of the nation was open and receptive due to a stagnant economy. The primary focus was on creating jobs and stimulating the construction industry.
- State legislatures also began to get involved by passing legislation to create housing authorities. These authorities had the power of financing, developing, owning, and administering low rent housing. They could also receive Federal assistance, including financial assistance.

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HOUSING ACT OF 1937

- The Housing Act of 1937 originated from the National Housing Act of 1934, which was part of President Roosevelt's New Deal. This Act established a permanent Public Housing Program whereby State enabling legislation was required to create local Public Housing Authorities (herein referred to as PHAs).
- Public housing was seen as a program to create viable jobs and stimulate construction, not a social welfare program. Original public housing residents were seen as "temporarily poor," with public housing resembling a holding station that was waiting to return people to their original socioeconomic status. Many people moved on to home ownership.
- Under the Housing Act of 1937, the Federal government was authorized to make loans, grants, and annual contributions to local public housing agencies. In return for funding, the localities agreed that the housing would not be subject to real or personal property taxes and that services would be provided to the residents of this housing, just as they would be provided to other residents in the community.
- The document which set out these provisions was called the Cooperation Agreement. Under this Agreement, the PHA could pay the locality a Payment in Lieu of Taxes (PILOT), up to 10% of rents collected or rents charged by the PHA, minus the PHA's utility expense.
- In 1942 President Roosevelt established the National Housing Agency. This agency was responsible for all the federal government's non-farming housing programs. The National Housing Agency was replaced by the Housing and Home Finance Agency, which eventually became the Department of Housing and Urban Development (HUD) in 1965.

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HOUSING ACT OF 1949

- The Housing Act of 1949 made sweeping changes in the focus of the program, from urban to national, with the intent of providing a decent home for everyone.
- The Urban Renewal Program was created from the Housing Act of 1949. Over 135,000 new public housing units per year were authorized for five years. The Act established three primary objectives:
  - To provide a massive slum clearance program.
  - To extend federal mortgage programs.
  - To expand the traditional public housing program and limit participation to low income families.
- One result of the Housing Act of 1949 was to concentrate the very poor, who were once previously dispersed throughout the community, into the highly populated confines of public housing.
- The PHA became "locked-in" to urban areas because their original occupants had resumed their middle class standards and moved to the suburbs. These people now resisted the intrusion of PHAs into their communities. The Public Housing Authority lost their most easily integrated clientele, as well as good building sites. Public housing was no longer a holding station for those preparing to move on to the "American dream" of homeownership, but instead became permanent housing for future generations of the impoverished.

HUD ACT OF 1969/BROOKE AMENDMENTS

- Senator Edward Brooke of Massachusetts introduced legislation that mandated that families/persons living in assisted housing should pay no more than 25% of their adjusted annual income for rent. To compensate PHAs for lost income, operating subsidies were established by the HUD Act of 1969. (24 CFR 990.101(b))

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1973 MORATORIUM

- The Nixon Administration imposed a moratorium on all subsidized housing programs, pending a reevaluation of the effectiveness of the programs. All new federally-subsidized housing construction was frozen, including Public Housing New Construction.

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

- The Housing Assistance Payments Program (Section 8) served to outline the details of subsidy payments to owners and was created to replace Section 23. As with Section 23, units under the program were privately-owned, with the PHA responsible for program administration. Section 8 was intended to replace the other programs which had been frozen.

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1980

- The Comprehensive Improvement Assistance Program (CIAP) was created, giving the PHA an opportunity to address the needs of their older housing stock. The emphasis of CIAP was on the comprehensive modernization and renovation of PHA units.

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HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1981

- The Housing and Community Development Act of 1981 included major changes which had a significant impact on the PHA. It changed the percentage of income used by the PHA to determine rents of occupants, and rents were then mandated to increase over time from 25% to 30% of income. The requirement for annual reexamination of all families living in assisted housing units, was implemented to include elderly residents who were previously required to be reexamined every two years.

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1987

- The Housing and Community Development Act of 1987 made Housing Vouchers a permanent program.

CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT OF 1990

- The Cranston-Gonzalez National Affordable Housing Act of 1990 instituted many legislative changes which affected housing, such as:
  - Allowing Certificate holders to pay more than 30% of their income toward rent under certain conditions.
  - Preference systems and priorities.
  - Strengthening of drug-related prohibitions.
  - Voucher program revisions.
  - Extension of statutory portability area.
  - Renewal of expiring Annual Contributions Contracts.
- This legislation further authorized the Family Self-Sufficiency Program.

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- The Act also required evaluation and monitoring of PHA performance. HUD was authorized to enter into agreements with troubled PHAs, setting forth incentives or sanctions for implementation of performance targets. It was HUD's Public Housing Management Assessment Program (PHMAP) and Resident Initiatives program which implemented this legislation.

QUALITY HOUSING AND WORK RESPONSIBILITY ACT OF 1998

- QHWRA was also known as the Public Housing Reform Act, or Reform Act.
- The intent of Congress in passing the Reform Act was to:
  - Restore public trust in low-income housing programs
  - Encourage best-practices private sector strategies and innovations in public housing
  - Promote self-sufficiency for families receiving housing benefits
  - Give high-performing PHAs recognition, flexibility, and incentives
- The Reform Act was a major overhaul of housing legislation by significantly amending the Housing Act of 1937.

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Programmatic Changes Made by the Reform Act

- Merged the Section 8 Certificate and Voucher programs.
- Changed income eligibility criteria, required deconcentration of poverty and income-mixing in public housing developments, allowed PHAs to establish systems of site-based waiting lists.
- Established permanent minimum rent requirements and hardship exemptions.
- Mandated disallowance of earned income.
- Required that PHAs set a flat rent for each public housing unit and that annually families are given a choice in rental payments.
- Required that all non-exempt adult residents comply with the community service requirement.
- Established the requirement for PHAs to submit PHA Plans to HUD.

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HOUSING OPPORTUNITY THROUGH MODERNIZATION ACT OF 2016 (HOTMA)

- HOTMA made numerous changes to statutes governing HUD programs, including sections 3, 8, and 16 of the United States Housing Act of 1937.
- Title I of HOTMA contains 14 different sections that impact the public housing and Section 8 programs.
- The Final Rule implementing broad changes to income and asset in Sections 102 and 104 of HOTMA, and for PHAs that administer the public housing program over-income provisions in Section 103, was officially published in the Federal Register on February 14, 2023.
- Encouraged more resident involvement in the administration of public housing programs.
- Required all public housing developments to permit pets, with policies set by the PHA.
- Mandated that the public housing operating subsidy formula be revamped.
- On September 29, 2023, HUD issued notice PIH 2023-27, which provided guidance to PHAs on the implementation of the program changes described in the Final Rule. HUD released a revised version of the notice dated April 16, 2026.
- On December 12, 2024, HUD published Notice PIH 2024-38, which identifies certain provisions of HOTMA 102/104 that PHAs must have complied with no later than July 1, 2025. The compliance deadline did not apply to other HOTMA 102/104 provisions not listed in the notice.

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- On May 14, 2026, HUD issued Notice PIH 2026-15, which provided a compliance date of January 1, 2027, for all remaining provisions of HOTMA 102/104. The compliance date does not apply to Moving to Work (MTW) PHAs nor PHAs using the HUD Family Reporting Software (FRS). For PHAs subject to this compliance deadline, all HUD-50058 transactions with an effective date on or after January 1, 2027, must reflect HOTMA requirements.

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Notes

Section 2 The Rental Assistance Demonstration Program

OVERVIEW

- Meeting budgetary considerations in the public housing program can be challenging to say the least. According to a 2011 HUD analysis, it would take about $26 billion to completely repair public housing developments that provide shelter for over 2 million residents. Meanwhile the federal budget for housing assistance fell by over 6 percent or $2.5 billion between 2010 and 2012. Given inflation, little financial improvement is expected in the near future. To deal with this crisis, HUD launched the rental assistance demonstration program, better known as RAD.
- RAD is intended 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, Section 8 project-based rental assistance (PBRA) or project-based vouchers (PBV). The program's objectives are to preserve and improve public and other assisted housing and promote operating efficiency by using a Section 8 project-based assistance model that has proven successful and effective for over 30 years. In other words, RAD aligns eligible properties more closely with other affordable housing programs. Through the use of this model, properties may be able to leverage private debt and equity to make capital repairs, and residents will have increased housing choice.
- Thus far, RAD has proved successful in raising private capital. In the first 30 days of the program, private investors committed $650 million.

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APPLYING FOR THE RAD PROGRAM

- In order to participate in the RAD program, a PHA must submit an application to HUD. To be eligible, the PHA must not be classified as troubled under the Public Housing Assessment System (PHAS) or Section 8 Management Assessment Program (SEMAP). HUD may waive this requirement for troubled agencies that have demonstrated substantial progress under corrective action plans.
- The submission of a RAD application is a significant change to the agency's five-year plan. Therefore, a PHA must obtain input from the resident advisory board and take all other mandatory steps to meet agency plan amendment requirements. At the same time, a PHA must submit any required amendments to its admissions and continued occupancy policy and administrative plan.
  - HUD provides a checklist for RAD-Specific Significant Amendment Submissions as Attachment 1D of Notice PIH 2012-32, Rev. 2, dated July 15, 2015.
- RAD application materials can be found on HUD's RAD webpage. The application consists of:
  - The PHA application form, which must be filled out entirely and submitted along with the required attachments.
  - The board approval form, which must be signed by the executive director.
  - The financing letter of interest/intent form, which by signing, the entity certifies that the development appears feasible and that the entity acknowledges RAD program requirements and policies, and agrees to abide by them.
    - This form must be completed for every proposed funding source.

Notes

- A mixed-finance affidavit form, which is required if the PHA is proposed to convert the public housing assistance in a mixed-finance development.
- The choice mobility letter agreement, which is required for PHAs that are requesting the choice mobility, briefly described later, ranking factor.
- Resident comments and the PHA's response.

• Other attachments may also be required depending on the particular development and whether the conversion will be to PBRA or PBV.

PBRA vs. PBV

• Because PHAs can select one of two major sub-programs under RAD – project-based rental assistance (PBRA) or project-based vouchers (PBVs) – PHAs should have a good idea of which they will choose before submitting the application materials. HUD's Office of Multifamily Housing Programs administers the PBRA component, whereas HUD's Office of Public and Indian Housing (PIH) administers the PBV component. The primary differences between PBRA and PBV include the following:

- PBV rents are generally limited to 110 percent of the fair market rent (FMR), although rent reasonableness and the availability of funding may also limit rents. PBRA rents under RAD, on the other hand, typically cannot exceed 120 percent of FMR, unless the rents are below comparable market rent, in which case the PHA may request an amount up to 150 percent of the FMR.
- The PBV contract term is generally 15 years, although it may be up to 20 years, whereas the PBRA contract term is 20 years.

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- In PBV under RAD, the number of assisted units in a development is limited to 50 percent, unless the units are designated for elderly, disabled, or for families participating in supportive services, in which case all units may be assisted. There is no limit on the percentage of assisted units in PBRA.
- In PBV, assisted households have the right to a PHA's next available voucher ("choice mobility") after one year of occupancy; in PBRA choice mobility does not apply until after 24 months and such moves may be limited in certain circumstances.

- In February 2015, HUD published a PBRA vs. PBV comparison guide detailing the primary differences between the two programs under RAD. HUD has also published other useful tools such as quick reference guides for PBRA and PBV conversions under RAD. Supplemental materials are available on HUD's RAD webpage.

COMMITMENT TO ENTER INTO A HOUSING ASSISTANCE PAYMENT (CHAP)

- PHAs are notified of selection via an award letter signed by HUD. Attached to the award letter is a commitment to enter into a housing assistance payment (CHAP), which states the HUD-approved terms and conditions for conversion of assistance.[1]
- The CHAP requires each PHA to meet a series of contractual milestones applicable to both RAD transactions and debt or equity financing.

1. Notice PIH 2012-32, Rev. 2

Notes

FINANCING SOURCES FOR RAD CONVERSIONS

- Properties converting to PBRA or PBVs under the RAD program may involve multiple layers of financing such as:
  - Public housing program funds
  - FHA Section 223(f) mortgage insurance
  - FHA Section 221(d)(4) construction and permanent loan with FHA-insurance
  - Community development block grant
  - HOME
  - Low-income housing tax credits (LIHTC)
- For each conversion property with multiple financing sources, PHAs must be familiar with the overlapping regulatory requirements that must be followed for each property.

CLOSING

- The RAD conversion is complete when the PHA reaches closing. In the initial year of conversion of assistance, developments will be funded through public housing accounts. At closing, the PHA provides certification that it will make operating and capital funds available in HUD-determined amounts within RAD budget line items in the line of credit control system (LOCCS). The PHA must use all such funds to make HAP payments for the remainder of that calendar year.
- In the calendar year following conversion, developments will be funded from either the PBRA account or the tenant-based rental assistance account (TBRA) relative to the form of Section 8 assistance for the developments, according to the amount indicated in the HAP contract.

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Notes

SUMMARY

- The Rental Assistance Demonstration (RAD) program allows PHAs to leverage public and private debt and equity in order to reinvest in the public housing stock by moving to a Section 8 platform. However, the submission of a RAD application, in addition to participation in the RAD program, requires a lot of thought and careful planning. As is true with many new programs, the details for RAD are evolving. HUD will continue to provide guidance as this program moves forward.

Notes

Section 3 Overview of Subsidized Housing Programs

PUBLIC HOUSING

- The Public Housing Program was created under the Housing Act of 1937. The buildings are owned by PHAs and may be any type of permanent structure.
- Public housing is called project-based assistance because families live in the building to be assisted.
- HUD executes an Annual Contributions Contract (ACC) with the PHA to provide annual payments toward the reduction of federal grants financed over a forty-year period.
- HUD provides an operating subsidy to assist in covering operational expenses when rent collection from families is inadequate.
- Major repairs to public housing developments are made through the Capital Fund.

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Notes

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

- The Housing and Community Development Act (HCDA) of 1974 created the Section 8 Housing programs. Some of the Section 8 programs are operated by the private sector and some by PHAs.

Section 8 Housing Choice Voucher Program

- Eligible families are issued a voucher and may seek suitable housing anywhere where a PHA has jurisdiction.
- The subsidy is tenant-based, not project-based.
- Participants select where they want to live.
- All dwelling units are required to pass Housing Quality Standards (HQS).
- The PHA pays a portion of the family's rent directly to the owner.

Section 8 Moderate Rehabilitation

- Project-based assistance; family must live in the unit or development to be assisted.
- The owner has a HAP Contract with the PHA for subsidy if eligible families live in the units.
- The rent formula for families is the same as with the former Section 8 Rental Certificate program.

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Notes

Private Sector Section 8 Programs and Characteristics

- Contracts are entered into between HUD and private owners for the Section 8 New Construction and Substantial Rehabilitation Programs.
- Project-based assistance for newly constructed or substantially rehabilitated developments.
- These programs are generally administered by owners in the private sector.
- A PHA could act as the Contract Administrator, the manager, or could be the owner through a nonprofit corporation.
- The owner bills HUD or the Contract Administrator for the subsidy.

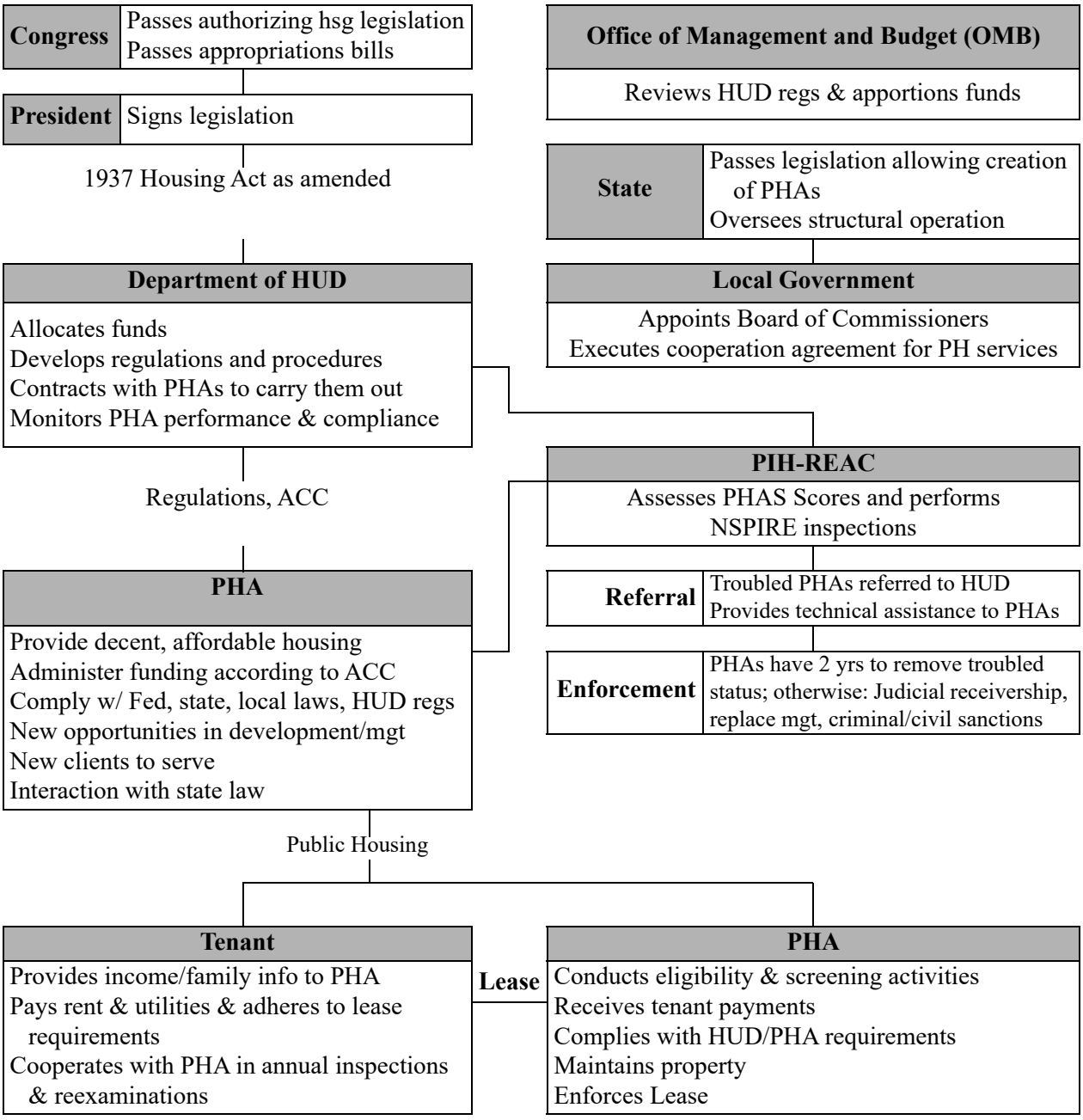
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Notes

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Section 4 Program Components

KEY RELATIONSHIPS



Notes

Congress

- Congress created and continues to shape subsidized housing through laws and statutes. HUD implements the legislation and cannot waive laws or statutes. To further explain and implement legislation, HUD creates and publishes regulations.
- PHAs use the laws, statutes, and regulations to define local policies and procedures. Lawsuits can challenge any of the legislation, regulations, policies, and procedures, which in turn further shape subsidized housing.
- Congress establishes HUD's budget with a programmatic breakdown of funding.

U.S. Department of Housing and Urban Development (HUD)

HUD Headquarters in Washington

- The primary role of HUD headquarters is decision-making and disseminating information.
- Headquarters writes and publishes:
  - Regulations to implement laws (proposed, interim, or final rules – published in 24 Code of Federal Regulations)
  - Handbooks and guidebooks
  - HUD notices and memoranda

HUD State and Field Offices

- The primary role of HUD state and field offices is to monitor PHAs for compliance and to provide technical assistance.

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Notes

Real Estate Assessment Center (PIH-REAC)

- PIH-REAC assesses PHAs under the Public Housing Assessment System (PHAS) and determines what level of scrutiny a PHA should receive. Troubled PHAs are referred for intensive technical assistance and monitoring.
- REAC also performs NSPIRE inspections.
- In addition, PIH-REAC evaluates the overall condition of HUD's housing portfolio.

Administration of Subsidized Housing

- HUD is charged by Congress as the department to administer subsidized housing activities.
  - However, HUD contracts with PHAs who build, manage, and maintain the buildings and administer the rent subsidy programs.

Public Housing Authorities (PHAs)

- The primary role of a PHA is the delivery of housing.
- PHAs have a contractual relationship with HUD. PHAs implement programs established by Congress and regulated by HUD.
- PHAs must operate in accordance with HUD regulations and with funding provided by HUD.

Public Housing

- Public housing is owned and managed by the PHA. The PHA, both the administrator and landlord in public housing, executes lease agreements with tenants.
- The PHA establishes policies in all areas of program operations and administration, using laws, statutes, and HUD regulations to govern the administration of the program.

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Notes

CREATION OF A HOUSING AUTHORITY

- PHAs are created under state enabling legislation. Housing authorities are similar but not identical. Each state has laws which define and stipulate:
  - The number of commissioners and procedures for appointment of commissioners
  - The legal powers and restrictions of a PHA
  - The operational jurisdiction of a PHA
    - Jurisdiction could be city, county, multicounty, or statewide, depending on the enabling legislation.
  - Activities which may be undertaken by a PHA.
- By-laws are established stipulating:
  - The place and time of regular meetings of the board of commissioners
  - Authority delegated to the executive director
  - How the PHA will conduct business

Annual Contributions Contract (ACC)

- The ACC is the primary contract between the PHA and HUD, stipulating conditions under which the PHA must operate. The ACC states:
  - Money will be provided by HUD provided the PHA operates in accordance with HUD rules and regulations.
  - HUD can monitor the PHA's performance under the ACC.
- The ACC sets forth obligations and responsibilities of the PHA to:
  - Operate developments for benefit of lower income families by providing affordable, safe, and habitable dwellings that are functionally adequate, operable, and free from health and safety hazards.
  - Ensure that income limits are adhered to.
  - Maintain the developments in good repair.
  - Maintain the books and records in accordance with HUD requirements.
  - Operate developments with maximum efficiency and economy.

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Notes

Local Laws

- Housing authorities must comply with all local codes which pertain to other property owners in the community.
- Most states and localities have adopted landlord-tenant laws. As a landlord, the PHA is subject to comply with such laws. PHAs are advised to seek legal clarification in cases where HUD requirements conflict with local or state law.

Court Decisions

- Legal challenges often result in court cases, which set legal precedent on challenging housing issues. Responding to legal challenges can be costly; losing such challenges may be financially devastating to a PHA.
- PHA management staff can minimize such challenges by:
  - Assuring that PHA policies and practices are current with HUD requirements;
  - Assuring that policies and procedures are applied uniformly by staff;
  - Emphasizing and requiring accuracy and attention to detail by:
    - Requiring thorough documentation of all PHA transactions
    - Not tolerating discriminatory practices or behavior; and
    - Making reasonable accommodations for persons with disabilities whenever possible.

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Notes

Cooperation Agreement

- The cooperation agreement is a contract between a city and a PHA which addresses the provision of local services such as trash collection and street maintenance within public housing developments. The cooperation agreement contains a requirement for the PHA to pay a payment in lieu of taxes (PILOT) for specified services.
- A cooperation agreement must be executed before a PHA may apply for and develop public housing in a city.

Notes

Section 5 HUD References and Communications

GUIDE TO HUD REFERENCES

Regulation	Topic
Part 1	Nondiscrimination in Federally assisted HUD programs–effectuation of Title VI of the Civil Rights Act of 1964
Part 5	General HUD Program Requirements; Waivers
Part 8	Nondiscrimination based on disability in Federally assisted HUD programs and activities
Part 100	Discriminatory conduct under the Fair Housing Act
Part 103	Fair Housing–complaint processing
Part 107	Nondiscrimination and equal opportunity in housing under Executive Order 11063
Part 108	Compliance procedures for affirmative Fair Housing marketing
Part 110	Fair housing poster
Part 146	Nondiscrimination on the basis of age in HUD programs or activities receiving Federal financial assistance
Part 902	Public Housing Assessment System (PHAS)
Part 907	Substantial Default by a Public Housing Agency
Part 908	Electronic submission of family data (S8, PH, IHA)
Part 945	Public Housing Designated for Occupancy by Elderly or Disabled
Part 960	Admission to, and occupancy of, Public Housing
Part 965	PHA-Owned or leased developments
Part 966	Lease & Grievance Procedures
Part 984	Family Self-Sufficiency Program
Part 990	The Public Housing Operating Fund Program

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Notes

HOW HUD COMMUNICATES

- Nan McKay's site: www.nanmckay.com
- HUD's homepage: www.hud.gov
- PIH homepage: http://www.hud.gov/program_offices/public_indian_housing
- HUD Regulations: www.hud.gov/program_offices/administration/hudclips
- HUD Notices: www.hud.gov/program_offices/public_indian_housing/publications/notices
- Form HUD-50058: https://www.hud.gov/sites/dfiles/PIH/documents/50058_Family_Report-2024_9-29-23.pdf
- REAC homepage: www.hud.gov/program_offices/public_indian_housing/reac
- Public Housing Occupancy Guidebook: https://www.hud.gov/program_offices/public_indian_housing/programs/ph/mod/guidebook

HOW TO READ A FEDERAL REGISTER NOTICE

- Rules issued in the *Federal Register* are organized as follows:
  - List of regulations affected
  - Subject
  - Rule status (final, interim, proposed)
  - Regulations published as proposed rules are for comment from PHAs and the public
  - Effective (implementation) date
  - Contact person for comments
  - Preamble
  - Discussion of HUD's response to comments from PHAs and the public can be found in the preamble of a final rule
  - Comments
  - Text of new or revised regulations
- See sample pages following.

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 5, 200, 247, 880, 882, 884, 891, 960, 966, and 982

[Docket No. FR–4495–F–02]

RIN 2501–AC63

Screening and Eviction for Drug Abuse and Other Criminal Activity

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations for the public housing and Section 8 assisted housing programs, and for other HUD assisted housing programs, such as the Section 221(d)(3) below market interest rate (BMIR) program, Section 202 program for the elderly, and Section 811 program for persons with disabilities, and Section 236 interest reduction program. All of these programs were affected by 1998 amendments to the statute authorizing the public housing and Section 8 programs. These amendments give Public Housing Agencies (PHAs) and assisted housing owners the tools for adopting and implementing fair, effective, and comprehensive policies for screening out programs applicants who engage in illegal drug use or other criminal activity and for evicting or terminating assistance of persons who engage in such activity.

DATES: *Effective Date:* June 25, 2001.

FOR FURTHER INFORMATION CONTACT: For tenant-based Section 8 and public housing—Patricia Arnaudo, Senior Program Manager, Office of Public and Assisted Housing Delivery, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4224, Washington DC, 20410; telephone (202) 708–0744 or the Public and Indian Housing Resource Center at 1–800–955–2232. Ms. Arnaudo also may be reached via the Internet at Patricia_S._Arnaudo@hud.gov.

For the Section 8 project-based programs—Willie Spearmon, Director, Office of Housing Assistance and Grants Management, Office of Housing, Department of Housing and Urban Development, Room 4220, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–3000. Mr. Spearmon also may be reached via the Internet at Willie_Spearmon&hud.gov.

Only the Public and Indian Housing Resource Center number is toll-free. Persons with hearing or speech impairments may access the above telephone numbers via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

HUD-assisted housing safer places to live on July 23, 1999 (64 FR 40262), which superseded earlier proposed

Crime prevention in federally assisted

engage in illegal drug use or other criminal activity, and both prevention and enforcement will be advanced by the authority to evict and terminate assistance for persons who participate in criminal activity.

The changes proposed in that rule derived from several sources. (See the chart published in the July 23, 1999, proposed rule at 64 FR 40264–40265 for more detail.) Section 9 of the Housing Opportunity Program Extension Act (Pub. L. 104–120, 110 Stat. 834–846, approved March 28, 1996)(''the Extension Act'') amended sections 6 and 16 of the United Stated Housing Act of 1937 (42 U.S.C. 1437a, *et seq.*) (''the 1937 Act''). Sections 428, 506, 545, and 575–579 of the HUD Appropriation Act for Fiscal Year 1999 (Pub. L. 105–276, approved Oct. 21, 1998) amended sections 3, 6, 8, and 16 of the 1937 Act

V of the HUD Appropriation Act for Fiscal Year 1999 (Pub. L. 105–276, approved October 21, 1998) was designated the Quality Housing and Work Responsibility Act of 1998 and is referenced in this rule as ''the QHWRA'' or ''the 1998 Act.'' Section 903 of the Personal Responsibility and Work

terminating tenancy for fleeing to avoid prosecution, custody or confinement after commission of a felony, or for violation of probation or parole.

Although owners and PHAs have been free to deny admission to applicants for assisted housing on the basis of criminal activity, these new statutory provisions mandate denial of admission for specified criminal activity. In implementing the new mandatory provisions, HUD does not impair existing authority of owners and PHAs to deny admission for criminal activity other than that specified in this rule or which has taken place at times other than those specified. In addition, many PHAs and owners may now use other means of obtaining criminal records and may continue to use these other means of obtaining that information. The portion of this rule that addresses access to criminal records, subpart J of part 5, does not affect those other means. However, HUD cautions PHAs and owners to handle any information obtained about criminal records in accordance with applicable State and Federal privacy laws and with the provisions of the consent forms signed by applicants.

The preamble to the July 23, 1999, proposed rule provided additional information about the proposed implementation of the Extension Act and the 1998 Act.

II. Significant Differences Between This Final Rule and the Proposed Rule

This final rule takes into consideration the public comments received on the proposed rule and attempts to simplify the rule where possible. The more significant changes made to the July 23, 1999 proposed rule by this final rule are described below.

1. *Revised and reorganized regulatory text.* HUD has revised and reorganized the majority of the proposed regulatory text. These changes are not substantive, but are designed to streamline the contents of the proposed rule and make the new requirements easier to understand. For example, the final rule uses a more reader-friendly question and answer format. The more significant of these clarifying and organizational changes are described in greater detail in this section.

2. *Cross-reference to generally applicable definitions (§ 5.100).* The final rule eliminates unnecessary redundancy by relocating the definitions of commonly used terms to subpart A of 24 CFR part 5 (see § 5.100 of this final rule). The program regulations using the defined terms have been revised to simply cross-reference to 24 CFR part 5, rather than repeating the generally applicable definitions.

3. *Authority to screen applicants and evict tenants (24 CFR part 5, subpart I).* This final rule reorganizes and clarifies the provisions of the proposed rule concerning the authority of housing providers to screen and evict tenants. Some of the 1998 Act provisions require certain actions, while other provisions authorize various actions. In the proposed rule, this distinction was not always entirely clear. HUD has made several revisions to proposed 24 CFR part 5, subpart I to clarify these

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5. Add a new § 200.37 to read as follows:

§ 200.37 Preventing crime in federally assisted housing.

See part 5, subparts I and J of this title, for provisions concerning preventing crime in federally assisted housing, including programs administered under section 236 and under sections 221(d)(3) and 221(d)(5) of the National Housing Act.

PART 247—EVICTIONS FROM SUBSIDIZED AND HUD-OWNED PROJECTS

6. The authority citation for part 247 continues to read as follows:

Authority: 12 U.S.C. 1701q, 1701s, 1715b, 1715l, and 1715z–1; 42 U.S.C. 1437a, 1437c, 1437f, and 3535(d).

7. In § 247.2, revise the last sentence in the definition of ''subsidized project'' to read as follows:

§ 247.2 Definitions.

* * * * *

Subsidized project. * * * For purposes of this part, *subsidized project* also includes those units in a housing project that receive the benefit of:

(1) Rental subsidy in the form of rent supplement payments under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s); or

(2) Housing assistance payments for project-based assistance under Section 8 of the 1937 Act (42 U.S.C. 1437f). However, this part is not applicable to Section 8 project-based assistance under parts 880, 881, 883 and 884 of this title (except as specifically provided in those parts).

8. In § 247.3, revise paragraph (a)(3) to read as follows:

§ 247.3 Entitlement of tenants to occupancy.

(a) * * *

(3) Criminal activity by a covered person in accordance with sections 5.858 and 5.859, or alcohol abuse by a covered person in accordance with section 5.860. If necessary, criminal records can be obtained for lease enforcement purposes under section 5.903(d)(3).

* * * * *

PART 880—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR NEW CONSTRUCTION

9. The authority citation for part 880 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437f, 3535(d), 12701, and 13611–13619.

10. In § 880.607, revise paragraph (b)(1)(iii) to read as follows:

§ 880.607 Termination of tenancy and modification of lease.

* * * * *

(b) * * *

(1) * * *

(iii) Criminal activity by a covered person in accordance with sections 5.858 and 5.859, or alcohol abuse by a covered person in accordance with section 5.860. If necessary, criminal records can be obtained for lease enforcement purposes under section 5.903(d)(3).

* * * * *

PART 882—SECTION 8 MODERATE REHABILITATION PROGRAMS

11. The authority citation for part 882 continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535(d).

12. In § 882.102, amend paragraph (b) [illegible] follows:

§ 882.102 Definitions.

(a) *Terms found elsewhere.* The following terms are defined in part 5, subpart A of this title: *1937 Act, covered person, drug, drug-related criminal activity, federally assisted housing, guest, household, HUD, MSA, other person under the tenant's control, public housing agency (PHA), Section 8, and violent criminal activity.*

* * * * *

13. In § 882.511, amend paragraph (a) by adding after the heading a paragraph designation (1), and by adding a new paragraph (a)(2).

§ 882.511 Lease and termination of tenancy.

(a) * * *

(2) The lease must provide that drug-related criminal activity engaged in on or near the premises by any tenant, household member, or guest, and any such activity engaged in on the premises by any other person under the tenant's control is grounds for the owner to terminate tenancy. In addition, the lease must provide that the owner may terminate the tenancy of a family when the owner determines that a household member is illegally using a drug or when the owner determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

* * * * *

§ 882.514 [Amended]

14. In § 882.514, remove paragraph (a)(2) and redesignate paragraph (a)(3) as paragraph (a)(2), and remove paragraph (g).

15. Add § 882.518 to read as follows:

§ 882.518 Denial of admission and termination of assistance for criminals and alcohol abusers.

(a) *Requirement to deny admission.*— (1) *Prohibiting admission of drug criminals.* (i) The PHA must prohibit admission to the program of an applicant for three years from the date of termination of tenancy if any household member's federally assisted housing tenancy has been terminated for drug-related criminal activity. However, the PHA may admit the household if the PHA determines:

(A) The household member who engaged in drug-related criminal activity and whose tenancy was terminated has successfully completed an approved supervised drug rehabilitation program, or

(B) The circumstances leading to the termination of tenancy no longer exist (for example, the criminal household member has died or is imprisoned).

(ii) The PHA must establish standards that permanently prohibit admission to the program if any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.

(iii) The PHA must establish standards that prohibit admission of a household to the program if the PHA determines that any household member is currently engaging in illegal use of a drug or that it has reasonable cause to believe that a household member's pattern of illegal use of a drug, as

offenders. The PHA must establish standards that prohibit admission to the program if any member of the household is subject to a lifetime registration requirement under a State sex offender registration program. In this screening of applicants, the PHA must perform criminal history background checks necessary to determine whether any household member is subject to a lifetime sex offender registration requirement in the State where the housing is located and

program under standards established by the PHA if the PHA determines that any

Compare with previous regulation

That portion of the CFR section not listed remains unchanged

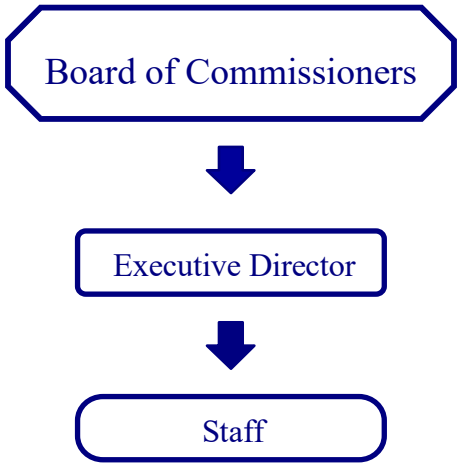
That portion of the section either above or below remains unchanged

Notes

Section 6 General Structure of a PHA

THE ORGANIZATIONAL STRUCTURE

- PHAs design their own organizational structure. Structures vary between small, medium, and large PHAs.
- Organizational structure may change with management and political changes or to accomplish new organizational objectives.
- The organizational chart defines the PHA structure, indicating lines of authority and functional relationships.
- The PHA is created, pursuant to state enabling legislation, as a public non-profit corporation.
- In most states, the PHA is a separate public corporation. However, the PHA may be a department of local government or a separate agency within the community.



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Notes

BOARD OF COMMISSIONERS

- The Board of Commissioners is at the top of the organizational structure of a PHA. The board operates on behalf of the local government to serve the housing needs and interests of the community's low-income households.
- The local governing body's role is determined by several factors:
  - The legal jurisdiction of the PHA.
  - The legal structure of the PHA.
  - The political environment.
- Depending on the PHA's legal jurisdiction, its local governing body may be:
  - City Council.
  - County Commissioners.
  - State Legislature.
  - Combination of governing bodies.
- The roles and responsibilities of the members of the Board of Commissioners include:
  - Set policy and direction of the PHA.
  - Adopt and oversee budgets (operating, development, modernization) and obtain sufficient funds for each.
  - Hire and retain qualified executive director.
  - Serve as an advocate for housing locally, regionally, and nationally.
  - Ensure that the PHA operates in a manner that is efficient, within the law, and prevents mismanagement, fraud, and discrimination.

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Notes

RESIDENT ON THE BOARD

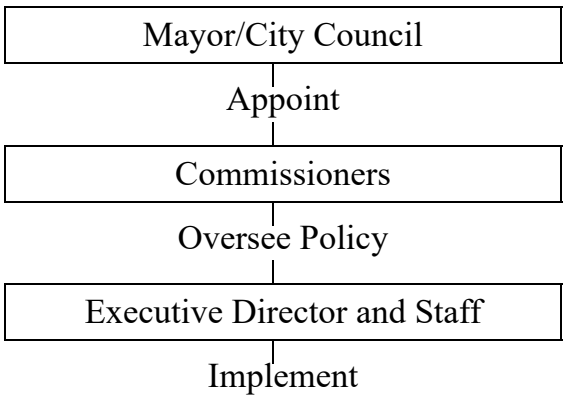
- Effective October 1, 1999
- The Board must include one resident directly assisted by the PHA.
  - "Directly assisted" means a public housing resident or Section 8 tenant-based participant
  - Resident must be at least 18 years old and on the lease.
  - PHAs may not establish eligibility requirements for board membership solely applicable to residents.
- Exceptions include:
  - Full-time, salaried position required by state law; or
  - PHA not governed by a governing board.
- The Housing Opportunity through Modernization Act of 2016 (HOTMA) also provides an exception to this requirement for certain jurisdictions:
  - These include HACLA or any PHA in the states of Alaska, Iowa, and Mississippi.
- Further, the rule does not apply to a PHA that:
  - Has less than 300 public housing units (or no public housing);
  - Has provided reasonable notice to the resident advisory board of the opportunity of residents to serve on the Board;
  - No resident has notified the PHA of intention to serve on the Board; and
  - Gives residents notice at least once a year.
    - PHA must give residents at least 30 days to express interest in serving on Board.

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Notes

EXECUTIVE DIRECTOR AND OTHER MANAGEMENT

- Most executive directors perform five basic management functions:
  - Planning
  - Organizing
  - Directing
  - Coordinating
  - Controlling
- There are four qualifications for an executive director:
  - Technical knowledge of HUD housing programs and regulations
  - Experience in managing people and processes
  - Leadership skills and abilities
  - Understanding and commitment to the objectives of the organization
- The executive director reports to Board of Commissioners. The executive director's authority is defined by the Board.
- Staff reports to the executive director or his/her designee.



Notes

Section 7 Key Program Documents

THE PHA PLAN

- Large PHAs must submit to HUD a 5-Year Plan once every five years, and an Annual Plan each fiscal year.
- The following PHAs are exempt from submitting the Annual Plan, but are not exempt from the requirement to hold an annual public hearing or to submit a 5-Year Plan.
  - The sum of public housing dwelling units administered by the PHA and the number of vouchers is 550 or fewer;
  - The PHA is not designated as a troubled PHA; and
  - The PHA does not have a failing score under SEMAP during the prior 12 months
- All PHAs must conduct a public hearing annually.
- The purpose is to provide local accountability and an easily identifiable source by which public housing residents, tenant-based program participants, and other members of the public may view local basic PHA policies, rules, and requirements concerning its operations, programs, and services.
- A PHA must include in its 5-year plan a statement of the PHA's mission and the PHA's goals and objectives that enable the PHA to serve the needs of families.
- The PHA Plan contains the discretionary policies of the various components or elements (for example, tenant selection policies from the ACOP) and not the statutory or regulatory requirements of these components.
  - The ACOP is a supporting document to the PHA Plan

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Notes

Contents of the PHA Plan

- Statement of housing needs
- Statement of financial resources
- Statement of the PHA's policies that govern eligibility, selection, and admissions
  - Includes waiting list preferences, assignment, waiting list management (including site-based waiting lists), and deconcentration and income-mixing
- Statement of the PHA's rent determination policies
  - Includes the flat rents for each public housing unit and the flat rent methodology
  - After initial implementation, subsequent annual changes to the HUD-determined FMR amounts do not trigger the significant amendment process.
- Statement of the PHA's operation and management
- Statement of the PHA grievance procedures
- Statement of capital programs planned
- Statement of any demolition and/or disposition
- Statement of the public housing developments designated as housing for elderly families only or for families with disabilities only
- Statement of the conversion of public housing to tenant-based assistance
- A statement of the conversion of public housing to project-based assistance under the Rental Assistance Demonstration (RAD) program
- Statement of homeownership programs planned and/or administered by the PHA
- Statement of the PHA's community service and self-sufficiency programs (including FSS)
- Statement of the PHA's safety and crime prevention measures in public housing, including specific information required by the Violence Against Women Act (VAWA)

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Notes

- Statement of the PHA's policies and rules regarding ownership of pets in public housing
- Civil rights certification
- Results of the PHA's most recent fiscal year audit
- Statement of asset management
- Resident advisory board (RAB) comments
- Other statements and certifications, as required

ADMISSIONS AND CONTINUED OCCUPANCY POLICY (ACOP)

- The Admissions and Continued Occupancy Policy (ACOP) is the PHA's principal statement of the policies to be used in the administration of the public housing program.
- The PHA must adopt a written ACOP that establishes local PHA policies for the administration of the program in accordance with HUD requirements.
- The ACOP and revisions must be formally adopted by the PHA Board of Commissioners or other authorized PHA officials, with discretionary ACOP policies in the PHA Agency/Annual Plan.
- The written ACOP does not have to be approved by HUD but must be available for audit.
- The purpose of the plan is to prevent misunderstandings between PHA staff and residents, to avoid lawsuits, and provide consistency of administration.

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Contents of the Admissions and Continued Occupancy Policy

- PHAs must adopt admissions policies which meet the requirements of:
  - HUD regulations
  - Title VI of the Civil Rights Act of 1964 and CFR 1
  - All other civil rights requirements
  - The Annual Contributions Contract (ACC)
  - State and local laws
- Admission policies must be reasonable and must be consistent with the PHA's responsibilities as a public body.
- Admission policies must include a tenant selection and assignment plan which covers:
  - The organization of the waiting list
  - The method by which applicants will be chosen from the waiting list and offered available dwelling units
  - The circumstances under which a transfer would take precedence over an admission
- Admission policies must also include:
  - The PHA's standards for determining:
    - Eligibility
    - Suitability for tenancy
    - The size and type of unit and development needed
  - The PHA's procedures for verifying the information the applicant has provided
  - The PHA's method for achieving deconcentration of poverty and income-mixing in public housing developments
  - The PHA's selection preferences and their relative weights.
- The PHA must post copies of the admission policies in each office where applications are received.
- The PHA must provide the pertinent portion of its admission policies to each applicant who requests it.

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Notes

THE LEASE

- The lease is the contract between the PHA and the public housing resident family.
- A model lease is provided in HUD's Public Housing Occupancy Guidebook, Appendix IV. PHAs are encouraged to review and use the sample provisions in accordance with local law and PHA administration policy and practice.

Notes

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Notes

Section 8 Policy Issues

MANDATORY POLICIES

- A **mandatory** policy or procedure is one that is required by a current law, regulation, notice, or handbook.
  - For example, 24 CFR 960.253 states, "Once a year, the PHA **must** give each family the opportunity to choose between" income-based and flat rent.
  - 24 CFR 5.615(c)(5) states, "The PHA **may not** include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction."
- The following references are mandatory and binding – i.e., they must be followed:
  - Statutes
  - HUD regulations
    - Governing regulations for the public housing program are located principally in 24 CFR Parts 5, 902, 903, 960, and 966.
  - Current PIH notices
    - Most PIH notices do not have an expiration date. Instead, they are "effective until amended, superseded, or rescinded." Those with expiration dates may be extended or reinstated.
  - HUD handbooks
  - Forms required by HUD regulations (such as form HUD-50058)
  - Opinions or rulings by HUD's Office of General Counsel

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DISCRETIONARY POLICIES

- Discretionary policies or procedures are decisions made by PHAs within legal and regulatory limits for the purpose of clarifying regulations, as needed, without changing their intent, or providing guidance and direction in which HUD is silent.
  - 24 CFR 960.206(b)(2) states, "A PHA may adopt a preference for the admission of working families."
  - HUD regulations do not address all occupancy and property management issues; therefore, the ACOP should be comprehensive enough to ensure consistent property management and program administration.
- The following HUD references are nonbinding – i.e., PHAs are advised, but not required, to follow them, unless the guidance provided is based on mandatory references:
  - Guidebooks
  - Notices that have expired
  - Handbooks that have expired
  - Recommendations from individual HUD staff

HUD Guidance as "Safe Harbor" for PHAs

- For issues not covered by mandatory references, HUD recommends that PHAs develop policies and procedures based on HUD guidance. Using HUD guidance creates a "safe harbor" for PHAs because HUD has determined that the guidance is consistent with applicable requirements.
- Since HUD guidance is optional, PHAs may use alternative approaches in developing policies in discretionary areas. However, they must then make their own determination of consistency with applicable requirements. They are not protected by the "safe harbor" concept.

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HUD and PHA Roles

- The role of HUD field office staff is to:
  - Inform PHAs about what is mandatory and provide them with appropriate references
  - Inform PHAs about what is optional or discretionary
  - Ensure that policies and procedures have been adopted and implemented
- The role of the PHA is to:
  - Develop policies and procedures to clarify requirements
  - Ensure consistency by all staff in the application of HUD regulations and PHA policies and procedures

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UNIT 3 Managing Non-Discrimination Compliance

Section 1 Introduction

- The public housing manager must be knowledgeable about nondiscrimination requirements, particularly Section 504 of the 1973 Rehabilitation Act, the Fair Housing Amendments Act of 1988, and the Americans with Disabilities Act, because these laws affect how PHAs develop policies and procedures.
- Legal challenges cost both time and money. The PHA can mitigate challenges if the public housing manager understands the intent of fair housing laws and puts them into practice.

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HUD'S NON-DISCRIMINATION/FAIR HOUSING COMPLIANCE REQUIREMENT

- Every PHA has an affirmative duty to comply with federal fair housing laws.
  - "Affirmative duty" means that PHAs must be vigilant and proactive
  - Every PHA must submit a signed certification to HUD of the PHA's intention to comply with:
    - Fair Housing Act
    - Title VI of the Civil Rights Act of 1964
    - Age Discrimination Act of 1975
    - Executive Order 11063
    - Section 504 of the Rehabilitation Act of 1973
    - Title II of the Americans with Disabilities Act.
  - The Admissions and Continued Occupancy Policy must include the intent to ensure full compliance with these laws.
  - The public housing manager must ensure that policies, procedures, and staff conduct are consistent with the PHA's fair housing oath.
  - Residents must be briefed about fair housing.
  - Residents who believe they have been illegally discriminated against have the right to be put in contact with the local fair housing agency.
  - The PHA should never steer an applicant or tenant toward a particular development or area based on their race, national origin, or any other arbitrary classification.

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Notes

NOTICE OF NON-DISCRIMINATION AND RECORD KEEPING FOR HUD

- HUD requires PHAs to maintain records on applicants and tenants for at least three years to provide HUD with racial, ethnic, gender and disability status.
- Every PHA office must have a posted policy on non-discrimination, which must state that the PHA will not discriminate on the basis of:
  - Race
  - Color
  - Sex
  - Religion
  - Disability (handicap)
  - National origin
  - Familial status
  - Age

OTHER STATE AND LOCAL FAIR HOUSING LAWS

- In addition to the classes protected under federal law, PHAs must be aware of protections that may be provided by state or local ordinance.
- These laws could have implications for the PHA's definition of "family" in the Admissions and Continued Occupancy Policy, to ensure all families are treated equally according to that jurisdiction's fair housing laws.

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Notes

Section 2 Overview of Federal Disability Discrimination Laws

- This section is an overview of the major federal laws protecting people with disabilities.
- While the laws and the related regulations in 24 CFR Parts 8 and 100 refer to "handicapped persons," that term has fallen into disuse due to its negative connotations. The proper term today is "persons with disabilities" and is what we use in this course. The word "handicap" is appropriately used for objects, such as for handicap parking spaces, but it is not used to refer to people.

SECTION 504 OF THE REHABILITATION ACT OF 1973

- Section 504 requires housing agencies to affirmatively ensure that persons with disabilities are given an equal opportunity to participate in the public housing program.
- A "qualified" person with a disability:
  - Must be afforded an *opportunity equal* to that afforded to others, and/or
  - Must be provided housing or benefits *as effective* as those afforded to others, and/or
  - May *not be provided different or separate* housing or benefits unless necessary to provide the person with a disability with housing or benefits that are as effective as those provided to others.
- These regulations make clear that it is not necessary to produce an *"identical" result.* Instead, the law affords people with disabilities an "equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement."
- In each case, *a participant with a disability must ask for an accommodation of their disability before the PHA treats them differently.*

Notes

The Fair Housing Amendments Act

- The Fair Housing Act[1] prohibits housing discrimination based on race, color, religion, sex, and national origin, regardless of whether federal funds are involved.
- The Fair Housing Amendments Act (FHAA) of 1988 extended this law to prohibit discrimination against persons with disabilities and familial status (known as discrimination against families with children) in almost every kind of housing-related activity, including advertising, renting, selling, and lending.
- In public housing, discriminatory conduct includes forbidding children to reside with grandparents or older adults in a designated elderly, designated disabled, or mixed-population development.
  - For example, the PHA cannot forbid grandma from having custody of her grandson and bringing him to live with her in her one-bedroom unit in a designated elderly development if the PHA would otherwise allow an adult person, such as a spouse, to live with grandma under occupancy policy or codes. If the additional person is a child, the PHA may not require grandma to transfer to a general occupancy development.

Age Discrimination Act of 1975

- Prohibits discrimination on the basis of age in federally assisted programs and activities.
- Most often involved in protecting rights of older Americans.

1. Title VIII of the Civil Rights Act of 1968

Notes

Title II of the Americans with Disabilities Act (ADA)

- Signed into law in 1990, the ADA is the most comprehensive civil rights law for persons with disabilities. Title II of the ADA and the regulations that implement it extended 504's non-discrimination policy to apply to all activities of state and local governments regardless of whether they receive federal funds.
- If your PHA employs more than 50 people, Title II requires the PHA to adopt grievance procedures for anyone denied a reasonable accommodation, *including applicants*.

Federal Laws Prohibiting Housing Discrimination Against People With Disabilities

	Rehabilitation Act 29 USC 504 29 USC 794	Fair Housing Amendments Act 42 USC 3601	Title II of the Americans with Disabilities Act (ADA)
Prohibited or required practices	1. Cannot discriminate, exclude, or deny benefits solely because of disability. 2. Must provide reasonable modifications in all rules, policies, and procedures. 3. Program must be readily accessible and usable by individuals with disabilities.	1. Cannot discriminate. 2. Provide reasonable accommodation in rules, policies, and procedures. 3. Allow tenant to make reasonable physical accommodations.	1. Cannot discriminate, exclude, or deny benefits solely because of disability. 2. Must provide reasonable modifications in all rules, policies, and procedures. 3. Program must be readily accessible and usable by individuals with disabilities.
Housing covered	Any housing that receives federal funds, including public housing agencies and assisted-housing providers.	All housing except owner-occupied 4-, 3-, or 2-family housing	Housing provided by state and local governments and their entities, including public housing agencies.
Definition of a person with a disability	A person who 1. has a physical or mental impairment that substantially limits a major life activity, such as walking, thinking, speaking, breathing, hearing, learning, or working. 2. a record or history of an impairment that limits a major life activity, even if the person no longer has the disability or if the disability no longer limits a major life activity. 3. is regarded as having an impairment that limits a major life activity.	A person who 1. has a physical or mental impairment that substantially limits a major life activity, such as walking, thinking, speaking, breathing, hearing, learning, or working. 2. a record or history of an impairment that limits a major life activity, even if the person no longer has the disability or if the disability no longer limits a major life activity. 3. is regarded as having an impairment that limits a major life activity.	A person who 1. has a physical or mental impairment that substantially limits a major life activity, such as walking, thinking, speaking, breathing, hearing, learning, or working. 2. a record or history of an impairment that limits a major life activity, even if the person no longer has the disability or if the disability no longer limits a major life activity. 3. is regarded as having an impairment that limits a major life activity.

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	Rehabilitation Act 29 USC 504 29 USC 794	Fair Housing Amendments Act 42 USC 3601	Title II of the Americans with Disabilities Act (ADA)
Are people with psychiatric disabilities covered?	Yes 1. if the psychiatric disability substantially limits a major life activity 2. or if a housing provider thinks the person's psychiatric disability or perceived psychiatric disability limits a major life activity 3. or if the person has a history of psychiatric disability that limits a major life activity, and the housing provider discriminates against the person because of the history.	Yes 1. if the psychiatric disability substantially limits a major life activity 2. or if a housing provider thinks the person's psychiatric disability or perceived psychiatric disability limits a major life activity 3. or if the person has a history of psychiatric disability that limits a major life activity, and the housing provider discriminates against the person because of the history.	Yes 1. if the psychiatric disability substantially limits a major life activity 2. or if a housing provider thinks the person's psychiatric disability or perceived psychiatric disability limits a major life activity 3. or if the person has a history of psychiatric disability that limits a major life activity, and the housing provider discriminates against the person because of the history.
Is current illegal drug use covered?	No If the illegal use of controlled substances occurred recently enough to justify a reasonable belief that a person's drug use is current or that continuing use is a real and ongoing problem.	No	No
Is a history of illegal drug use covered?	Yes 1. if recovered from addiction, i.e., successfully completed a rehabilitation program and not using, 2. or if participating in a treatment program or self-help group and not currently using drugs.	Yes 1. if recovered from addiction, i.e., successfully completed a rehabilitation program and not using, 2. or if participating in a treatment program or self-help group and not currently using drugs.	Yes 1. if recovered from addiction, i.e., successfully completed a rehabilitation program and not using, 2. or if participating in a treatment program or self-help group and not currently using drugs.
Are people who have alcoholism covered?	Yes	Yes	Yes
Are people with AIDS or who are HIV+ covered?	Yes	Yes	Yes

Notes

Notes

Section 3 Definitions of the Term "Disability"

- This section is an overview of the two definitions of "disability." The first is the HUD definition used for purposes of eligibility as a disabled family, and the HUD allowances and deductions. The second is the ADA definition used for purposes of reasonable accommodation.

HUD Definition of a Disabled Person

- The HUD definition of a person with a disability is used for purposes of receiving the disabled family preference, the elderly/disabled household deduction, the dependent allowance, the allowance for heath and medical care expenses.
- The person must provide third-party documentation that they meet at least one of the three qualifying HUD definitions of disabled.
- Persons are considered disabled if:
  - They have a disability as defined in 42 U.S.C. 423 (this is the Social Security definition)
  - They are determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:
    - Is expected to be of long-continued and indefinite duration;
    - Substantially impedes their ability to live independently; and
    - Is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

  OR

Notes

- They are functionally disabled as defined in Section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act [42 U.S.C. 6001(8)]. "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:
     – Self-care
     – Receptive and responsive language
     – Learning
     – Mobility
     – Self-direction
     – Capacity for independent living
     – Economic self-sufficiency; and
- Reflects the person's need for a combination and sequence of special interdisciplinary or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated."

• Persons who have acquired immunodeficiency syndrome (AIDS) or any conditions arising from the AIDS virus are not excluded from this definition.

• For purposes of qualifying for low-income housing, the definition does not include a disability based solely on any drug or alcohol dependence.

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DEFINITION OF A DISABLED PERSON FOR PURPOSES OF REASONABLE ACCOMMODATION

- The definition of a person with a disability for purposes of granting a reasonable accommodation request under either 504, FHAA or the ADA is much broader than the HUD definition of "disability." The Fair Housing Act defines "handicap" as:
  - "A physical, mental, or emotional impairment that substantially limits one or more of a person's major life activities
  - "Has a record of such impairment; or
  - "Is regarded as having such an impairment."
- This definition is identical to the 504 definition at 29 U.S.C. section 706(8)(B) and the definition of a person with disabilities under the ADA.
- The physical or mental impairment can include practically any condition, disease, illness, disfigurement or disorder, as long as the impairment substantially limits one or more major life activities. Examples include:
  - Alcoholism
  - Cerebral palsy
  - Cancer
  - Mental illness
  - Emotional disorder
  - Former drug addiction
  - HIV infection

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- Major life activities include, but are not limited to:
  - Caring for oneself
  - Performing tasks
  - Walking
  - Seeing
  - Hearing
  - Breathing
  - Learning
  - Working
- These federal civil rights laws were intended to cover a wide range of disabilities and do not require the severity of the HUD definition.
  - This broader definition is used for purposes of reasonable accommodation. This is because the laws were intended to ensure that a person with some limitation due to an impairment was not excluded from a program simply by virtue of that impairment so long as a reasonable shift in a program’s rules or practices could allow them full access to the program.
- Qualifying as a person eligible to request an accommodation is the first step in the reasonable accommodation process. It is the establishment of the person’s right to make a request of the program.
- However, the person must also show that they are limited by the program due to the nature of their disability, and that the requested accommodation will remove that limitation so that they can completely fulfill the program’s requirements.

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Notes

LIMITATIONS SPECIFICALLY EXCLUDED FROM DISABILITY PROTECTION

- The following three categories are specifically excluded from disability laws' protections:
  - Current drug users
  - People whose alcohol use interferes with the rights of others
  - A person with any disability that poses a direct threat or substantial risk of harm to others, that cannot be controlled with a reasonable accommodation under the public housing program
- In addition, juvenile and sex offenders, by virtue of their status, are not persons with disabilities protected by civil rights and fair housing.

NON-DISABLED PEOPLE WHO ARE CONSIDERED DISABLED

- This part of the definition of disability is used only to determine who is protected by civil rights laws.
- A person does not have to have a mental or physical impairment to be discriminated against under fair housing laws.
  - A person is "disabled" if others regard or treat them as if they are.
- If a staff member treats an applicant or tenant as though they had an impairment that substantially limits a major life activity, and because of that perception discriminates against that person, that person may file a discrimination claim under 504, whether or not they are actually disabled, and even though they are not qualified to receive an accommodation.

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Notes

Notes

Section 4 Reasonable Accommodation Process

- This section is an overview of the correct approach for a request for a reasonable accommodation.
- The best way to ensure consistent compliance with legal obligations to provide reasonable accommodation is to standardize the procedure for considering such requests. The process should be included in the Admissions and Continued Occupancy Policy, and should describe protocol and steps beginning with the original request for an accommodation and concluding with the resolution of the request.

PHA Obligation to Notify

- The PHA has an obligation to inform applicants and tenants of the right for any person with disabilities to request a reasonable accommodation. The PHA should review forms, letters, posters, and signs for inclusion of this information.
- PHAs should consider adding the following to relevant application and occupancy documents:
  - "If you or anyone in your family is a person with disabilities, and you require a specific accommodation in order to fully utilize our programs and services, please contact (name and phone number)."
- PHAs should create or adopt standardized forms that clearly and simply ask for all the information and verifications the PHA will use in considering the request. It is best to ask the same questions of everyone.
  - However, PHAs must give appropriate consideration to reasonable accommodation requests even if the requester makes the request orally or does not use the PHA's preferred forms or procedures.

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- The PHA should have written procedures that spell out:
  - The position in the PHA responsible for overseeing compliance with reasonable accommodation requirements
  - The manner in which the PHA will respond to the request
  - The decision-making process (including a determination of undue burdens or fundamental alterations)
  - The time periods for decision and implementation of the accommodation
  - The right of appeal for unfavorable decisions regarding an accommodation or a particular choice of accommodation
  - The procedure for handling confidential verification forms that may disclose private medical facts.

APPLICANT OR TENANT MUST *REQUEST* A SPECIFIC ACCOMMODATION

- An applicant's or tenant's request triggers the need for an accommodation.
- The PHA should never offer an accommodation until one has been specifically requested. Treating people differently because of a perceived disability is discrimination.

Notes

THE REQUEST FOR AN ACCOMMODATION BEGINS A *PROCESS*

- The reasonable accommodation process may include fluid negotiations on a case-by-case basis. What is reasonable in one situation may not be reasonable in another. The PHA may not be able to exactly meet the specific request, but may offer alternative options.
- The PHA should develop a reasonable accommodation process to be followed by all staff. For example, the PHA may require that the request for an accommodation be in writing, if the person is able to do so.
- It's important to be aware that sometimes the need for an accommodation first presents itself in the form of a complaint (from or about the applicant or tenant), or through issues of noncompliance.
  - For example, if an applicant is denied admission, or if a tenant is facing lease termination, the need for some type of accommodation may be brought up. This is the signal for the PHA to begin the reasonable accommodation *process.*
- The reasonable accommodation process should be documented beginning with the initial request for an accommodation.
- The PHA's legal protection from a discrimination complaint or lawsuit lies in having *written* proof that consideration was given to the request.

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Notes

WHAT THE PHA CANNOT ASK

- The general rule is that the PHA **cannot** ask:
  - If a person has a disability (unless it is relevant to whether the applicant qualifies for the program or type of designated development or the level of benefits from the program);
  - The nature or extent of the disability;
  - Any question that would require the disabled person to waive or disclose a medical condition or history;
  - Whether any family member has a disability.
- It is always the right of a person with disabilities to not say anything about their disabilities.
  - However, the PHA does not have to provide any accommodation or special preference for that person.
- A public housing program cannot require that the tenant be able to live independently.
  - The PHA can only require that the family meet all its defined family obligations.

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Notes

WHAT THE PHA CAN ASK

- A PHA can ask only for information that is relevant.
  - If a person is applying for housing designated for individuals with disabilities or a certain type of disability, the PHA may ask if the applicant has a qualifying disability and for verification of that disability.
  - If the person is applying for the public housing program and is single and the PHA has a singles preference, the PHA may ask if they qualify for a priority over other single applicants.
  - If the person is trying to qualify for allowances that reduce their rent based on a disability (such as the $550 allowance for elderly and disabled families, the allowances for unreimbursed medical expenses or disability assistance expenses), the PHA may ask the person to verify a disability (and disability-related expenses when relevant).
  - If the person requests an accommodation due to their disability, you may ask the person to verify they have a disability and the need for the requested accommodation.
  - If, during the denial of admission process, the person asserts the poor history was caused by their disability and that a reasonable accommodation would prevent future violations, or that mitigating circumstances should be considered, the family may be asked to verify that:
    - They have a disability
    - The poor history or violation was a result of their disability
    - There are mitigating circumstances related to the disability, and the problems causing the poor history have been reasonably resolved, or that the requested accommodation is reasonable and likely to cure the violation.

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Notes

TREAT EACH CASE INDIVIDUALLY

- The essential intent of federal anti-discrimination laws is that each case should be treated on its individual merits.
- The PHA's legal protection from a discrimination complaint or lawsuit lies in having written proof that *good-faith, individual consideration was given to that particular person.*

CONSIDER THE APPLICANT'S OR TENANT'S CHOICE OF ACCOMMODATION

- Special consideration should be given to applicant's or tenant's choice of accommodation.
  - Accommodations are not reasonable if they impose undue administrative and financial burdens on the public housing program.

INFORMATION MUST BE ACCESSIBLE

- Information must be provided in an accessible format, when requested. People must be informed of their right to ask for a reasonable accommodation.

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CONSIDERATION OF REASONABLENESS OF REQUEST

- A PHA can deny a request for reasonable accommodation if the request was not made by or on behalf of a person with a disability or if there is no disability-related need for the accommodation.
  - In addition, a request for a reasonable accommodation may be denied if providing the accommodation is not reasonable, i.e., if it would impose an undue financial and administrative burden on the PHA or it would fundamentally alter the nature of the PHA's operations.
- The determination of undue financial and administrative burden must be made on a case-by-case basis involving various factors,[1] such as:
  - The overall size of the PHA's program with respect to the number of employees, type of facilities, and size of budget
  - The type of operation, including the composition and structure of workforce
  - The nature and cost of the requested accommodation
  - The availability of alternative accommodations that would effectively meet the requester's disability-related needs
- When a PHA refuses a requested accommodation because it is not reasonable, the PHA should discuss with the requester whether there is an alternative accommodation that would effectively address the requester's disability-related needs without a fundamental alteration to the PHA's operations and without imposing an undue financial and administrative burden.
  - If an alternative accommodation would effectively meet the requester's disability-related needs and is reasonable, the PHA must grant it.

1. Notice PIH 2010-26

Notes

REQUIREMENT TO KEEP INFORMATION CONFIDENTIAL

- Under federal privacy laws, a PHA is required to keep confidential any personal information about an applicant or tenant obtained in a confidential manner or from a confidential source.
- An applicant or tenant may sign a consent form to allow the PHA to disclose information in their file, but staff should not talk to anyone about a particular applicant's or tenant's medical status without authorization from the applicant or tenant, preferably in writing.
  - For example, the individual may have a social worker or family member who will help with the annual reexamination and inspection.
- If a PHA receives a verification document that provides a person's diagnosis or details of treatment for a disability or medical condition, the PHA should dispose of it. The PHA should note in the file that a disability (in place of the specific disability information) and any other information requested has been verified, the date the verification was received, and the name and address of the knowledgeable professional who sent the information.[1]

1. Notice PIH 2010-26

Notes

Section 5 Verification

- If a person voluntarily discloses a disability and requests an accommodation, a PHA can require third-party verification that the accommodation being requested would remove a barrier that is due to the disability.
- The PHA should define what the PHA considers a valid third-party for verification of a disability.
  - Limiting verification to only physicians is not allowed. Depending on the information sought, a social worker, nurse, or other licensed professional might be competent to verify.
  - A suggested definition could be "a professional competent to render the opinion and knowledgeable about the person's situation."
- A PHA may require documentation of the manifestation of the disability that causes a need for a specific accommodation.
- If a person's disability is obvious, or otherwise known to the PHA, and if the need for the requested accommodation is also readily apparent or known, then the PHA may not request any additional information about the requester's disability or the disability-related need for the accommodation.
- It is inappropriate and unnecessary for a PHA to receive actual medical records.
  - A verification form should ask for only as much information about an applicant's or tenant's disability as is necessary to consider the qualification for a particular reason stated by the PHA.
- A PHA may ask the applicant or tenant for authorization to contact the third-party professional to ask clarifying questions that do not go beyond the specific and necessary information required to make a decision.

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Section 6 Reasonable Accommodation Functions

PROGRAM AREAS

- This section provides practical strategies for implementing the requirements in each function area of the public housing program.
- Per Notice 2002-01(HA), PHAs are required to make reasonable adjustments to their rules, policies, practices, and procedures in order to enable an applicant or resident with a disability to have an equal opportunity as that afforded others to fully participate in the program and services of the PHA.
- The PHA should first modify the general program through a self-evaluation and transitional plan.
  - Per Notice PIH 2002-01(HA), all PHAs are encouraged to conduct needs assessments and self-evaluations at least yearly, working with people/residents with disabilities and local advocacy groups.
- Reasonable accommodation pertains to making reasonable adjustments in all functional areas of the public housing program:
  - Applications
  - Admissions
  - Determinations of eligibility
  - Inspections and repairs
  - Leasing
  - Modifications
  - Annual activities
  - Transfers
  - Termination of tenancy
  - Services

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Notes

- Some examples in these functions may include:
  - Visiting an applicant in their home for an eligibility interview;
  - Conducting a home visit for an annual reexamination;
  - Not prohibiting an eligible disabled family from accepting a non-accessible unit for which the family is eligible which may become available before an accessible unit;
    - The PHA is required to modify such a non-accessible unit as needed unless the modification would result in an undue financial and administrative burden.
  - Providing an extra bedroom for a live-in aide;
  - Providing an extra bedroom for special medical equipment;
  - Allowing mitigating factors to be presented in a lease termination grievance;
  - Physically altering a unit;
  - Providing accessible transportation so a tenant may participate in a PHA -sponsored self-sufficiency activity.
  - Allowing a service or support animal to live in the unit.
- Essential program requirements need not be waived. A reasonable accommodation allows a person with a disability to meet essential requirements of the lease, but it does not require reducing or waiving essential requirements to rules, policies, functions, or physical space.
  - For example, waiving the requirement to pay rent would be waiving an essential program requirement. Knocking out a wall in the public housing unit that would impair the unit's structural integrity is not reasonable.

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Notes

- Reasonable accommodations are sometimes costly. Congress anticipated this additional financial commitment and made clear that they intended the federal programs to lay out resources where necessary to ensure equal access to persons with disabilities.
- In determining whether a particular accommodation is an undue financial burden, the public housing budget as a whole is considered.

ACCESSIBILITY

- Notice PIH 2010-26, issued July 26, 2010, reminds PHAs that they are required to make reasonable adjustments to their rules, policies, practices, and procedures in order to enable an applicant or resident with a disability to have an equal opportunity to use and enjoy the unit, the common areas of a dwelling, or participate in or access other programs and activities conducted or sponsored by the PHA.
- This includes the requirement for PHAs to make and pay for structural modifications to dwelling units and common areas, or use other equally effective methods, when needed as a reasonable accommodation for tenants or applicants with disabilities.
  - For example, a PHA may be required to:
    - Install a ramp to allow a tenant in a wheelchair access to a dwelling unit
    - Install grab bars in a unit to accommodate a resident with a mobility disability
    - Transfer a family to an available accessible unit or one that can be modified in lieu of modifying the family's current inaccessible unit

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Notes

- PHAs are not required to provide requested structural modifications if doing so would result in a fundamental alteration in the nature of the program or cause an undue financial and administrative burden.
  - See Notice PIH 2010-26 for further guidance on what constitutes an "undue financial and administrative burden."
- Notice PIH 2010-26 also specifies accessibility standards for PHAs.
- Required accessible dwelling units shall, to the maximum extent feasible and subject to reasonable health and safety requirements, be distributed throughout developments and sites and be available in a sufficient range of sizes and amenities so that people with disabilities have choices of living arrangements comparable to that of other families eligible for assistance under the same program.
- HUD recommends that PHAs provide Notice PIH 2010-26 to current and future contractors, agents, and housing choice voucher program owners.

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Notes

Section 7 Limited English Proficient Persons

- In March 2025, Executive Order 14224 revoked Executive Order 13166 which had directed agencies to enhance access to federal programs for persons with limited English proficiency (LEP) and required tailored guidance for recipients of federal funding under Title VI of the Civil Rights Act of 1964. Executive Order 14224 also declared English as the official language of the United States.
- In response, on July 14, 2025, the Office of the Attorney General (OAG) issued a memo on the implementation of EO 14224 which rescinded all prior guidance to federal agencies regarding Title VI of the Civil Right Act's prohibition against national origin discrimination affecting LEP persons. The memo:
  - Presents a legal analysis that finds language is not an immutable characteristic entitled to Title VI protection and decoupling LEP persons from national origin discrimination.
  - States that, where allowed by law, agencies should determine which of their programs and policies might serve the public at large better if operated exclusively in English.
  - States that agencies are not required to amend, remove, or otherwise stop production of all multilingual documents, products, or other services prepared or offered. Further, many states and localities have laws regarding language services to be provided to non-English speaking persons which may apply to the PHA.
  - Language for LEP persons can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information.
- PHAs should make decisions as they deem necessary to fulfill their mission and efficiently provide services.

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Notes

Notes

Section 8 Violence Against Women Act (VAWA)

INTRODUCTION

- The purpose of VAWA[1] is to reduce domestic violence, dating violence, sexual assault, stalking, and human trafficking; to prevent homelessness of the victims of such acts; to protect victims who reside in PH and S8; and to ensure victims have access to the criminal justice system without jeopardizing their housing.
  - VAWA amends the 1937 Housing Act, placing safeguards on admissions and terminations for the public housing and Housing Choice Voucher programs, and provides procedures for certification, confidentiality, and notification.[2]
  - 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.
- PHAs are strongly urged to consult with legal counsel, victim advocacy groups/service providers, and tenants before adopting policy.

1. 24 CFR 960.200(b)(8)
2. 24 CFR 5.2005; 24 CFR 5.2007

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Notes

DEFINITIONS

- The term ***affiliated person*** means,
  - the tenant's spouse, parent, sibling, or child; or any individual, tenant, or lawful occupant living in the tenant's household; or anyone for whom the tenant acts as parent/guardian of a victim of domestic violence, dating violence, sexual assault, or stalking.
- *Bifurcate*[1] – with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.
- *Domestic violence* – Includes felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding, and in the case of victim services, includes the user or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is:
  - The current or former spouse or intimate partner of the victim, or person similarly situated to a spouse or intimate partner of the victim
  - A person who is cohabitating or has cohabitated with the victim as a spouse or intimate partner
  - A person with whom the victim shares a child in common
- A person who commits acts against a youth or adult victim who is protected from those acts under the domestic or family violence laws of the jurisdiction.

1. 24 CFR 5.2003

Notes

- *Dating violence* - Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on length of relationship, type of relationship, and frequency of interaction between the persons.
- *Stalking* means:
  - Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
    - Fear for the person's individual safety or the safety of others; or
    - Suffer substantial emotional distress.
- *Victim* means any victim of VAWA violence/abuse, regardless of actual or perceived sexual orientation, gender identity, sex, or marital status.

DENIAL OF ADMISSION

- VAWA prohibits PHAs from denying admission to otherwise qualified applicants on the basis of or as a direct result of the fact that they are, or have been, victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking.[1]
  - When an applicant appears unsuitable due to bad credit, poor landlord references, or a history of evictions or crime, the PHA usually denies admission.
  - What if the reason for the bad history is that they are a victim? How would a PHA know?
  - Notice PIH 2017-08 states that the PHA is prohibited from denying assistance or admission, terminating participation, or evicting a tenant based on adverse factors, if the adverse factor is determined to be a direct result of the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.
  - *Adverse factors* refer to any factor that can be used as a basis for denying admission, terminating assistance, or evicting a tenant.

1. 24 CFR 5.2005

Notes

TERMINATIONS

- VAWA mandates that incidents or threats of abuse will not be construed as serious or repeated violations of the lease or "other good cause" for termination of a victim of abuse.[1]
  - This includes property damage and noise complaints due to abuse.
- Criminal activity directly relating to abuse, engaged in by a member of tenant's household, any guest, or other person under tenant's control, shall not be cause for termination if tenant or immediate member of tenant's family is a victim of that abuse.
- However, the PHA may terminate assistance to any individual who is a tenant or lawful occupant, and who engages in criminal acts of violence against family members or others.

The Lease

- A PHA may *bifurcate* a lease to remove a household member without regard to whether a household member is a signatory to the lease.
  - The lease is bifurcated in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant, and who engages in criminal acts of physical violence against family members or others, regardless of whether the household member is a signatory of the lease, without evicting or otherwise penalizing the victim of such violence.
- PHAs are required to include bifurcation language in the public housing lease for circumstances that involve domestic violence, dating violence, sexual assault, stalking, and human trafficking, in addition to including VAWA definitions under 24 CFR Part 5, VAWA protections, information on documentation, and remedies available to victims.[2]

1. 24 CFR 5.2005
2. 24 CFR 966.4(e)

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Notes

- The federal statutory authority to bifurcate a lease or otherwise remove an individual takes precedence over any federal, state, or local law to the contrary.
  - Of course, the PHA must follow federal, state, and local laws to evict or terminate the family as a whole.
- Before adopting a bifurcation provision, the PHA will need to make some policy decisions.
  - How and under what circumstances will it be used?
  - Eviction of the abuser may not always be necessary. The abuser may seek counseling or treatment as an option if the family requests.
- In lease bifurcations for mixed families where the eligible individual is the perpetrator, the PHA must provide any remaining tenant or tenants that were not already eligible a period of 30 calendar days from the date of bifurcation of the lease to establish eligibility in the same or another housing program or find alternative housing. The 90-day time period does not apply to HCV or public housing.[1]
- PHAs are encouraged to undertake any permissible and feasible actions under the program to assist individuals that are victims to remain in their units or other units under the same or other program, and to bear the costs of any transfer, if permissible.[2]
- The law does not limit the authority of the PHA, when notified of a court order to comply with respect to the rights of access or control of property to protect a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking; or the distribution or possession of property among members of a household.[3]

1. Notice PIH 2017-08
2. CFR 5.2009(c)
3. CFR 5.2005(d)

Notes

- PHAs and owners may not coerce, intimidate, threaten, interfere with, or retaliate against any person who exercises or assists or encourages a person to exercise any rights or protections under VAWA.[1]

What VAWA Doesn't Restrict

- VAWA restrictions may not limit the PHA from honoring various court orders issued to either protect the victim or address the distribution of property in case a family breaks up.[2]
- VAWA restrictions don't limit the PHA from evicting due to any lease violation not premised on the act of abuse against the tenant, member of the household, or affiliated person provided the PHA doesn't subject an individual who is or has been a victim to a more demanding standard than others.
- VAWA restrictions may not limit the authority of the PHA to evict any occupant who can be demonstrated to pose an actual or imminent threat to other tenants or the property's employees.[3]
- Any eviction or termination of assistance should only occur when there are no other actions that could be taken to reduce or eliminate the actual and imminent threat, such as transferring the victim to another unit.[4]
  - Notice PIH 2017-08 provides several considerations for reducing "actual and imminent" threats.
- VAWA restrictions don't supersede any federal, state, or local laws that provide greater protection for victims of abuse.[5]

1. FR Notice 1/4/23
2. 24 CFR 5.2007(d)
3. 24 CFR 5.2005(e)
4. 24 CFR 5.2005(d)(3)
5. 24 CFR 5.2009

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Notes

Notification and Certification

- PHAs and owners are required to provide the Notice of Occupancy Rights (HUD-5380) and certification form (HUD-5382) at admission and along with any notice of denial or eviction.
  - The Notice of Occupancy Rights is the official HUD informing notice.
- PHAs are not required to demand official documentation or physical proof of domestic violence, dating violence, sexual assault, or stalking before granting an alleged victim any of the special protections afforded by VAWA. The PHA may accept the individual's statement alone.
  - HUD recommends documenting in a confidential manner when a verbal statement or other evidence is accepted.[1]
- If the PHA chooses to request an individual document their status as a victim, the PHA must make such a request in writing. Simply providing the victim with the form HUD-5382 does not constitute a written request for documentation.[2]
- If the PHA requests documentation, the applicant or participant may submit any 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 protections
    - 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 local police or court records
  - A statement or other evidence provided by the individual, at the PHA's discretion

1. Notice PIH 2017-08
2. Notice PIH 2017-08

Notes

- Form HUD-5382 may also be filled out and submitted on behalf of a victim.
  - Notice PIH 2017-08 encourages PHAs and owners to advise applicants, tenants, and participants that forms submitted on their behalf will take the place of the victim's own statement.
- Individuals requesting protection cannot be required to provide additional third-party documentation, although the PHA may require third-party documentation if more than one applicant or tenant provides documentation (e.g., two household members each claiming to be the victim and the other the perpetrator) or the submitted documentation contains information that conflicts with information already available to the PHA.
  - In such cases, the applicant has 30 calendar days from the date of the PHA's request to submit third-party documentation.
  - Notice PIH 2017-08 provides several clarifications and considerations with respect to requesting third-party documentation in cases where information conflicts.
- In addition, PHAs and owners may not conduct further "fact finding" to verify the validity of victim status, although if the PHA or owner already has or receives reliable conflicting information, they may require additional third-party documentation, as noted above.[1]
- Form HUD-5382 states that victims are not expected and cannot be asked or required to claim, document, or prove victim status or VAWA violence or abuse other than as stated in the Notice of Occupancy Rights, Form HUD-5380.

1. Notice PIH 2017-08

Notes

FORM HUD-5382

- Form HUD-5382 is the Certification of Domestic Violence, Dating Violence, Sexual Assault or Stalking.
- The current version makes clear that:
  - Victims of sexual assault are protected by VAWA as well as victims of domestic violence, dating violence, and stalking.
  - The form applies not only to family members but also to affiliated persons of tenant, participant, and applicant families.
    - An *affiliated person* is defined in Form HUD-5380.
    - Notice PIH 2017-08 clarifies that while guests, unassisted members, and live-in aides are ineligible for VAWA protections, however, as a reasonable accommodation, a tenant or participant can request VAWA protections if a live-in aide is a victim or other reasonable accommodations on a case-by-case basis.
- The form includes a space for "your name (if different from the victim's)."
- The form specifically states that whenever a victim asks for or about VAWA protections, any information provided will be kept confidential.
- HUD's form leaves space for the family to provide the name of the perpetrator, if known and can be safely disclosed.
- The form contains space for the victim to specify the safest contact method as to not place the victim at risk (the abuser may monitor the mail, email, or phone).
- The PHA must give the individual at least 14 business days to respond to their written request for documentation.
- The PHA may extend the 14-day deadline at its discretion.

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Notes

- The VAWA certification requirements do not supersede any provision of any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

EMERGENCY TRANSFER PLAN

- VAWA regulations require PHAs to establish an emergency transfer plan (ETP) as part of their administrative plan or ACOP.
  - HUD published a HUD-5381, a model Emergency Transfer Plan template, and form HUD-5383, Emergency Transfer Request. These forms are available at https://www.hud.gov/program_offices/housing/mfh/violence_against_women_act.
  - 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.
  - Notice PIH 2017-08 also provides a detailed description of requirements for ETPs and other considerations when establishing ETPs, including examples.
- The ETP must be made available upon request or made publicly available.

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Notes

- The ETP 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.

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Notes

Confidentiality Requirements

- If a tenant inquires or requests any VAWA protections, or represents that they or a household member is a victim, all information provided to the PHA regarding domestic violence, dating violence, sexual assault, stalking, or human trafficking, including the fact that an individual is a victim of such violence, must be retained in confidence and may neither be entered into any shared database nor provided to any related entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.[1]
- For safety and legal reasons surrounding liability to the PHA and harm to a victim, a PHA may want to consider having all VAWA situations handled by a single staff member to limit access and knowledge with regards to the certification process and details regarding the abusive situation.
    - Notice PIH 2017-08 offers guidance and best practices for proper communication with victims, specifically for avoiding inadvertent disclosure of information and ensuring the safety of the victim.

1. 24 CFR 5.2007(b)(4), FR Notice 8/6/13

Notes

Section 9 Sexual and Other Forms of Harassment

HUD Final Rule on Harassment and Liability for Discriminatory Practices

- HUD published a final rule in the *Federal Register* on September 14, 2016, amending regulations in 24 CFR Part 100, effective October 14, 2016, to formalize standards for use in investigations and judicial proceedings involving allegations of harassment on the basis of race, color, religion, national origin, sex, familial status, or disability.
  - This rule clarifies that harassment can be not only a form of discrimination based on sex, but also can be discrimination based on other protected classes under the Fair Housing Act.
- The rule defines the two types of harassment—quid pro quo harassment and hostile environment harassment.
  - Quid Pro Quo (something for something) harassment is an unwelcome request or demand to engage in conduct where submission to the request or demand, either explicitly or implicitly, is made a condition related to housing activities such as the sale, rental, or availability of a dwelling, or the provision of housing-related services or facilities. An unwelcome request or demand may constitute quid pro quo harassment even if a person accepts without protest the unwelcome request or demand.
  - Hostile environment harassment is unwelcome conduct that is sufficiently severe or pervasive as to interfere with housing activities such as the sale, rental, or availability of a dwelling, or the provision or enjoyment of housing-related services or facilities. Hostile environment harassment does not require a change in the economic benefits, terms, or condition of the housing-related activities.

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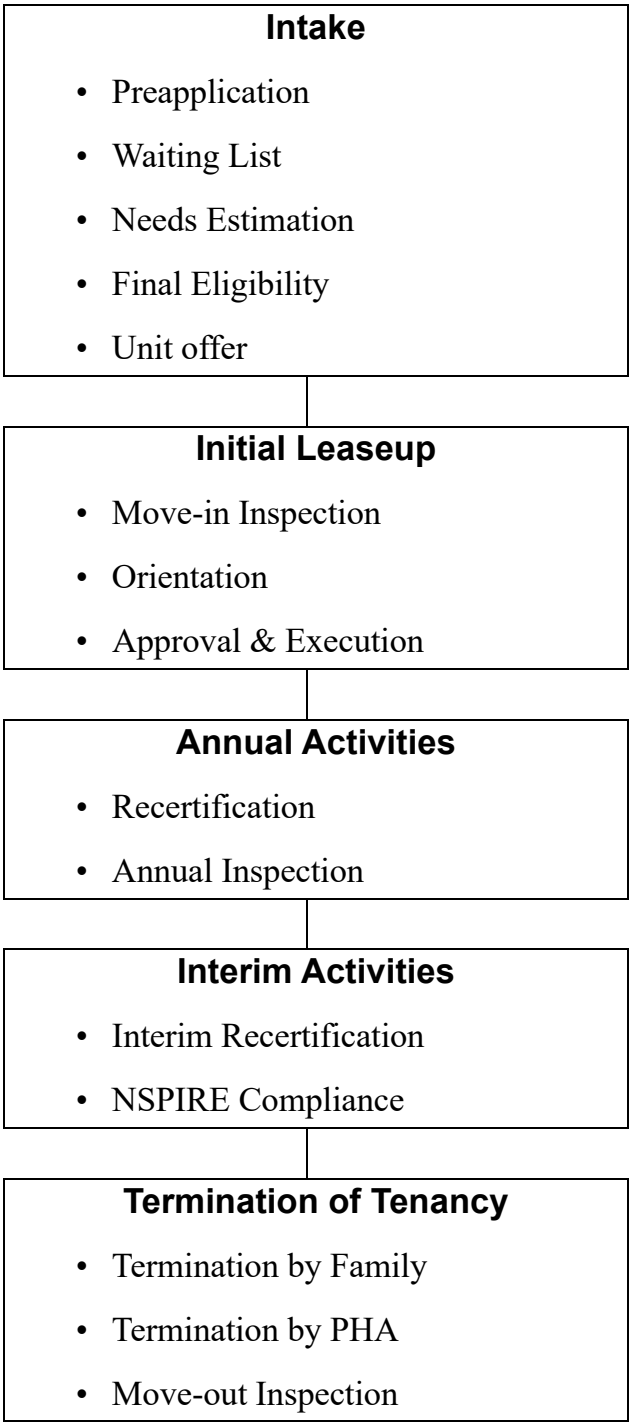
Notes

- The final rule provides that a person is directly liable for failing to take prompt action to correct and end a discriminatory housing practice by a third party, where the person *knew or should have known* of the discriminatory conduct and had the power to correct it. The power to take prompt action to correct a discriminatory housing practice by a third party depends upon the extent of control or any other legal responsibility the person may have with respect to the conduct of such third party.
- The final rule adds a provision, Section 110.400(c)(6), prohibiting retaliation against anyone because they reported a discriminatory housing practice to a housing provider or other authority.

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UNIT 4 Evaluating Eligibility

Section 1 The Steps of the Occupancy Cycle



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Notes

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Notes

Section 2 The Intake Process

1. **Preapplication**	2. Waiting List	3. Needs Estimation	4. Final Eligibility	5. Unit Offer

- Family submits written (or online) application form developed by PHA if waiting list is open; preapplication or full application, depending on size of waiting list.
- Preapplication has less information than full application, but enough to determine preliminary eligibility and placement on list. Usually not verified.
- If family is eligible, PHA sends letter:
  - Preliminary eligibility
  - Name on waiting list
  - Approximate wait
- If family is ineligible, PHA sends letter:
  - Notifying of ineligibility
  - Reasons why
  - Informal hearing

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Notes

1. Preapplication | **2. Waiting List** | 3. Needs Estimation | 4. Final Eligibility | 5. Unit Offer

- PHA determines appropriate bedroom size according to Occupancy Standards.[1]
- Only eligible families (unverified) go on waiting list.
- PHA may use date and time (or by lottery), or PHA may apply local preferences used to select among applicants without regard to date and time.[2]
  - PHA must establish local preferences which promote deconcentration and income mixing in public housing developments.
- PHA may establish a system of site-based waiting lists.
  - Must be described in PHA Plan
- PHAs must reserve a minimum of 40 percent of new admissions to public housing each fiscal year for extremely low-income families.
  - Referred to as "income targeting"
  - Extremely low-income families are families whose income doesn't exceed the federal poverty level or 30 percent of area median income, whichever number is higher[3]

1. Preapplication | 2. Waiting List | **3. Needs Estimation** | 4. Final Eligibility | 5. Unit Offer

1. CFR dated and effective 12/18/98 includes factors HUD will consider when evaluating possible discrimination based on familial status:
   - Size of unit and bedrooms
   - Age of children
   - Configuration of unit
   - Other physical limitations of housing (sewer, etc.)
   - State/local law
   - Other relevant factors of unit and bedrooms
2. The Quality Housing and Work Responsibility Act of 1998 permanently repealed the use of federal preferences. See *Federal Register* notice, "QHWRA Initial Guidance," 2/18/99.
3. See *Federal Register* notice, "HUD Implementation of Fiscal Year 2014 Appropriations Provisions," 6/25/14.

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Notes

- PHA estimates open units based on projected unit turnover.
- PHA estimates number of families needed to fill each vacancy.
- PHAs must develop policies to provide for deconcentration of poverty by attempting to bring:
  - Higher income tenants into lower income public housing developments; and
  - Lower income tenants into higher income public housing developments.
- Full application is completed if preapplication was used.
- PHA verifies preferences for the top "X" number of families on list.
  - PHA sends family preference claim and verification form.
    - If preference doesn't verify, family is placed in the proper order on the waiting list (may be offered a meeting regarding preference denial).
    - If preference verifies, PHA proceeds to final eligibility verification.

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Notes

1. Preapplication	2. Waiting List	3. Needs Estimation	**4. Final Eligibility**	5. Unit Offer

- PHA schedules family for interview (or asks family to contact PHA to set up interview).
- Family fills out Personal Declaration/application form. Family signs verification and release forms. PHA photocopies documents submitted by family.
- PHA follows HUD's verification hierarchy for verifying eligibility factors.[1]
  - If higher-level verifications are not obtained within time frame in ACOP, PHA uses lower levels of verification and documents reason in file.
- PHA compares verified annual income to income limits to determine income eligibility.
- PHA verifies social security numbers.
- PHA verifies citizen/noncitizen status.
- PHA calculates total tenant payment from verified information.
- PHA offers family choice between income-based rent and flat rent
- PHA determines if unit is available for family.
  - If PHA offers system of site-based waiting lists, family is offered unit in development designated.
  - Final eligibility is determined and PH unit made ready to offer.
- If family is ineligible, PHA sends notice of denial and opportunity for informal hearing.
- If no unit available, family stays in verified pool of applicants waiting for available unit.

1. Notice PIH 2018-18

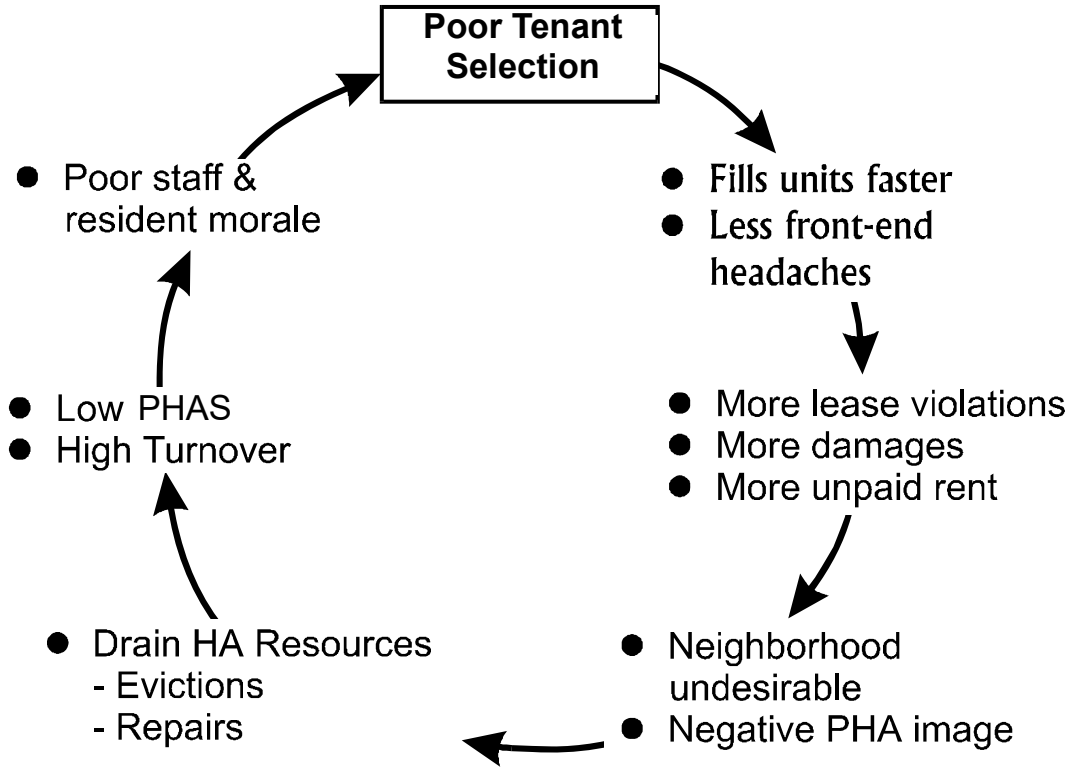
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Notes

1. Preapplication	2. Waiting List	3. Needs Estimation	4. Final Eligibility	**5. Unit Offer**

- PHA reviews units of appropriate size available.
- PHA must develop offer system
  - Plan A (one offer) or Plan B (two or three offers)
  - System of site-based waiting lists has option of adopting Plan A, Plan B, or another reasonable system.
- If family refuses the offers made, name goes to bottom of waiting list.

Public Housing Circle of Doom



Notes

Notes

Section 3 Family Type

HOUSEHOLD

- HUD defines *household* as the family and the PHA-approved live-in aide.

FAMILY

- HUD defines *elderly*, *disabled* and *displaced* families. *Family* includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:
  - A single person, who may be an elderly person, disabled person, near-elderly person, or any other single person; or
  - An otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age who has left foster care or will leave foster care within 90 days, and is homeless or at risk of becoming homeless at age 16 or older; or
  - A group of persons residing together, and such a group includes, but is not limited to:
    - A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family)
    - An elderly family
    - A near-elderly family
    - A disabled family
    - A displaced family
    - The remaining member of a tenant family
- The PHA determines in PHA policy what groups other than the HUD-defined groups constitute a family.
- *Gender identity* – Actual or perceived gender characteristics.
- *Sexual orientation* – homosexuality, heterosexuality, or bisexuality.

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Notes

COHEAD

- A person equally responsible for the lease with the head of household.
- There can only be one cohead per household and a family cannot have both a spouse of head and cohead.
- The cohead can never be a dependent. If under 18 years of age, they must be declared an emancipated minor under the state law of the PHA's jurisdiction.

ELDERLY FAMILY

- Use for purposes of preference and allowances/ deductions.
- An elderly family includes:
  - A family whose head, spouse, cohead, or sole member is at least 62 years of age, or
  - Two or more persons at least 62 years of age living together, or
  - One or more persons at least 62 years of age living with one or more live-in aides.
- Nothing in the definition of *elderly family* excludes children.

NEAR-ELDERLY FAMILY

- A *near-elderly family* is defined as a family whose head, spouse, cohead, or sole member is:
  - At least 50 years old, but under 62 years of age
  - Two or more such persons living together
  - One or more such persons living with one or more live-in aides.

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Notes

DISABLED FAMILY

- A family whose head, spouse, cohead, or sole member is a person with disabilities, or
- Two or more persons with disabilities living together, or
- One or more persons with disabilities living with one or more live-in aides.
- In any case, one of the people with disabilities must be the head or spouse.

SINGLE PERSONS

- All single persons are eligible if they meet other eligibility criteria. A single-person family may be:
  - An elderly person (62 and over)
  - A displaced person
  - A disabled person
  - Any other single person who is not elderly, displaced, or disabled, or the remaining member of a tenant family.
- A PHA may provide one-person elderly, disabled, homeless, or displaced families a preference over single persons who are not elderly, displaced, homeless, or a person with disabilities.
- If a single person is pregnant:
  - No allowance for the unborn child.
  - Income limit for one-person family is used.
  - Third-party verification is okay if PHA feels necessary (physician's certificate).
  - The PHA is not required to distinguish single pregnant women from any other group of singles.

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Notes

HUD Definition of Persons with Disabilities

- Note: See full definition under "Legislative Reference" on the page following.
- The term "person with disabilities" is defined in Section 3(b) of the 1937 Housing Act (42 U.S.C. 1437a(b)).
- 42 U.S.C. 1437a(b) defines "person with disabilities" as a person who:
  - Has a disability as defined in 42 U.S.C. Section 423
  - Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(8)).
  - Has a physical, mental, or emotional impairment that:
    - Is expected to be of long-continued and indefinite duration,
    - Substantially impedes his or her ability to live independently, and
    - Is of such a nature that ability to live independently could be improved by more suitable housing conditions.
- Individuals are not considered disabled for eligibility purposes solely on the basis of any drug or alcohol dependence.
- Individuals whose alcoholism or drug addiction is a material factor of their disability are excluded from the definition.
- Individuals are considered disabled if the disabling mental and physical limitations would persist if the drug or alcohol abuse was discontinued.

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Legislative Reference

1. 42 U.S.C. Section 423 (d)(1)(A) defines disability as:

> "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
>
> In the case of an individual who has attained the age of 55 and is blind (within the meaning of "blindness" as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time."

2. The Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(8)) defines developmental disability in functional terms as:

> A severe, chronic disability of a person 5 years of age or older which:
>
> (A) Is attributable to a mental or physical impairment or combination of mental and physical impairments;
>
> (B) Is manifested before the person attains age twenty-two;
>
> (C) Is likely to continue indefinitely;
>
> (D) Results in substantial functional limitations in three or more of the following areas of major life activity: (i) self-care, (ii) receptive and responsive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) 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 which are of lifelong or extended duration and are individually planned and coordinated; except that such term, when applied to infants and young children, means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided."

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Notes

Continued Qualification as Family with Disabilities

- A family must continue to qualify as a disabled family at reexamination in order to continue receiving any disability-related deductions.
- After admission, a person with disabilities who "recovers" can remain in assisted housing, but is no longer considered a "person with disabilities," and cannot qualify for deductions allowed family members with disabilities.

Verification of Disability

- Receipt of Social Security Disability or Supplemental Security Income is verification of disability. If such benefits are not received, a knowledgeable professional may verify that the person meets this criteria, using the exact wording in the HUD definitions.
- PHA may not require a statement or verification from a physician when adequate verification is available from other sources.

HUD Guidance on Reasonable Accommodation

- Remember that the definition of "disabled" for purposes of reasonable accommodation is much broader than the HUD definition used for eligibility and allowances.

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Notes

LIVE-IN AIDE

- A person who resides with person(s) who are elderly, near elderly, and/or have a disability, and:
  - Is determined by the PHA to be essential to the care and well-being of the person(s).
  - Is not obligated for support of the person(s).
  - Who would not be living in the unit except to provide necessary supportive services.
- Relatives are not automatically excluded. The relative must meet the requirements stated above to qualify.
- Originally HUD anticipated that live-in aides would be single persons and that only one additional bedroom would be required.
- HUD now allows a live-in aide's family members to reside in the unit, provided the presence of the live-in aide's family does not overcrowd the unit.
- In making decisions pertaining to the family members of live-in aides, a PHA cannot refuse to approve a particular live-in aide simply because they have children, since this would be familial status discrimination.
- At any time, the PHA may refuse to approve a particular person as a live-in aide, or may withdraw such approval, if the person:
  - Commits fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program
  - Commits drug-related criminal activity or violent criminal activity
  - Currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

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Notes

FOSTER CHILDREN AND ADULTS

- Families may have foster children or foster adults live with them if it would not result in overcrowding. PHAs should adopt reasonable policies regarding PHA approval for foster children or foster adults to reside in the unit.
- HUD defines a foster adult is a member of the household who is 18 years of age or older and meets the definition of a foster adult under State law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.
- HUD defines a foster child 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.
- Foster children are counted for occupancy standards.
- Foster children do qualify for deductions for child care.
- Foster children do not qualify for the dependent allowance.

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Notes

CHILD CUSTODY

- PHAs should determine whether to count a child as part of the family in these situations:
  - A family member who does not have full custody of the child.
  - A child who lives only part of the time with the family.
- PHA should consider custody and the amount of time the child spends with the family.
- If the child does not currently reside with the family, the PHA should consider the child part of the family only if there is evidence that the child would reside with the family if they were admitted to public housing.
- The same child cannot be claimed by more than one family (i.e., counted more than once in order to have a bedroom in two separate households).
- If a child is included as part of the family, typical determinations on income and allowances are to be made.

REMAINING MEMBER

- The remaining member of a public housing family is a family member listed on the lease who continues to live in the unit after all other family members have left.
- If the remaining member signed the lease, the person would continue in the program under that lease.
- If the remaining member did not sign the lease, the PHA would have to determine whether it would be willing to enter into a lease with that person (considering factors such as suitability for tenancy and their ability to uphold a lease).

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Notes

Section 4 Social Security Number Requirements

- The regulations governing disclosure and verification of Social Security numbers were revised effective January 31, 2010. The current regulations cover the requirements for disclosure and documentation of SSNs for every applicant and resident household member. While applicants and residents must disclose and document SSNs under the current regulations, the actual "verification" of SSNs is performed by the PHA through HUD's automated systems. The regulations also provide penalties for failure to disclose or document SSNs.

REQUIRED DISCLOSURE[1]

- All assistance applicants and residents must disclose 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 6 are not exempt from the requirement. However, documentation may be delayed for children under 6 years old who have joined the household within the past 6 months.
- 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).[2]
  - 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.

1. CFR 5.216; Notice PIH 2023-27
2. CFR 5.216(a)

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Notes

- Current residents who had not previously disclosed a SSN, and who were at least 62 years old and on the program on January 31, 2010. The exemption applies at all future reexaminations and continues if the individual transfers to a new unit or receives another form of housing assistance.[1]
- Household members who have already provided a valid SSN prior to January 31, 2010. The current regulations do not require the PHA to re-verify the SSNs of current residents whose SSNs have been validated through HUD's automated systems.

REQUIRED DOCUMENTATION[2]

- Several forms of documentation are now acceptable. 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. Note that the Social Security Administration no longer uses SSNs on Medicare cards and only provides the last four digits of the SSN on award letters.
  - An original document showing the individual's 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.

1. CFR 5.216(e)
2. CFR 5.216(g); Notice PIH 2023-27

Notes

- While PHAs must attempt to gather third-party verification of SSNs prior to admission as listed above, PHAs also have the option of accepting a self-certification and a third-party document (such as a bank statement, utility or cell phone bill, or benefit letter) with the applicant's name printed on it to satisfy the SSN disclosure requirement if the PHA has exhausted all other attempts to obtain the required documentation.
  - If verifying an individual's SSN using this method, the PHA must document why the other SSN documentation was not available.
  - If the tenant's SSN becomes verified in EIV, then no further verification is required.
- If the tenant's SSN fails the SSA identity match, then the PHA must obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name of the individual and the SSN of the individual, along with other identifying information of the individual. The tenant's assistance must be terminated if they fail to provide the required documentation.

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Notes

- The PHA may only reject documents which:
    - Are not original
    - Appear to be forged, or
    - Appear to be altered, mutilated, or not legible.
  - If the PHA rejects the family's documentation, the PHA should explain why the documents were not acceptable. The PHA should then request acceptable documentation within a specified time frame.
  - The PHA verifies the SSN by making a copy of the original documentation submitted, returning it to the individual, and retaining the copy in the family's file. In addition, the PHA records the SSN on line 3n of form HUD-50058 and transmits the form to HUD in a timely manner.
    - PHAs are required to submit the form no later than 30 calendar days of receiving the SSN documentation to enable HUD to initiate its computer matching efforts for current program participants.
  - HUD allows PHAs, at their discretion, to remove and destroy SSN documentation from the file once the number has been validated through the EIV system. The EIV printout will be considered adequate to verify the SSN. Doing so minimizes the risk of exposing the individual's SSN.[1]

1. Notice PIH PIH 2023-27

Notes

When Disclosure and Documentation are Required

- The HUD regulations provide differing time frames for SSN disclosure and documentation. The time limits depend upon the assistance program, type of certification, ages of household members and other factors.
- For applicant families, the SSN for each household member (except noncontending persons) must be disclosed and documented when program eligibility is being determined. The family may not be admitted to the program until this requirement has been met. If otherwise eligible, the family may retain its place on the waiting list pending SSN disclosure and documentation.[1]
  - If a child under the age of six years has been added to the applicant household within six months prior to the date of admission, an otherwise eligible family may be admitted to the program. The family must provide documentation of the child's SSN within 90 days of admission. The PHA must allow an additional 90 days if it determines that failure to comply was outside the control of the resident or was due to unforeseen circumstances. If documentation is not provided within the time allowed, assistance must be terminated.

1. CFR 5.216(b); 5.216(h); Notice PIH PIH 2023-27

Notes

- When adding a new household member to a resident family, the time frames depend upon the age of the new member and whether he or she has been assigned an SSN.[1]
  - If the new household member is at least six years old, or is under 6 and already has an SSN, the SSN must be disclosed and documented at the time of the request, or during processing of the interim reexamination to add the new member. The new member cannot be added to the household until this requirement is met.
  - If the new household member is under the age of 6 and has not been assigned a SSN, the resident must disclose and verify the child's SSN within 90 days of the child's addition to the household. The PHA must allow an additional 90 days if it determines that failure to comply was outside the control of the resident or was due to unforeseen circumstances. The PHA must include the child as part of the household during this period and must provide the family with any related benefits such as allowances and deductions.

1. CFR 5.216(e)(2); Notice PIH PIH 2023-27

Notes

Penalties for Failure to Disclose/Document SSNs

- The PHA must deny assistance for an applicant family if the regulatory requirements for SSN disclosure and documentation are not met. The applicant must disclose and document the SSN for every household member (except noncontending persons) in order to qualify for the program.[1]
- The PHA must terminate tenancy of resident households if the regulatory requirements for SSN disclosure and documentation are not met. Tenancy must be terminated for the entire household if these requirements are not met for every non-exempt household member.
  - The PHA must defer termination for a period not to exceed 90 days if it determines that the resident's failure to meet the requirements was due to unforeseen circumstances outside the control of the family, and if it is reasonably likely that the resident will be able to disclose and document the SSN(s) by the deadline.
- The PHA must deny admission or terminate the family's assistance, or both, if the family submits falsified SSN documentation.
- The head of household may not remove a household member from the family composition in order to avoid these penalties. Prorated assistance is not permitted in this situation.

1. CFR 5.218; Notice PIH PIH 2023-27

Notes

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Notes

Section 5 Restriction on Assistance to Noncitizens

EFFECTIVE DATE AND PURPOSE OF RULE

- Effective date: 6/19/95, revised by an interim rule issued 11/29/96, and final rule dated 5/12/99.
- The purpose of the regulation is to:
  - Provide implementation procedures
  - Ensure only citizens, nationals, and certain categories of eligible immigrants are assisted
  - Preserve family status

DEFINITIONS

- *Child*: A member of the family other than the family head or spouse who is under 18 years of age.
- *Citizen*: Citizen/national of the United States.
- *Evidence of citizenship or eligible immigration status*: The documents which must be submitted to establish citizenship or eligible immigration status.
- *Head of household:* The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.
- *Mixed family*: A family including citizens or eligible immigrants, and members without citizenship or eligible immigration status.
- *National*: A person who owes permanent allegiance to the United States; e.g., as a result of birth in a U.S. territory or possession.
- *Noncitizen*: A person who is neither a citizen nor national of the United States.
- *Spouse:* The marriage partner, either a husband or wife, who must be divorced to dissolve the relationship. Includes common law marriages, but not boy/girl friends, significant others, or coheads.
- *USCIS* means the U.S. Citizenship and Immigration Services (formerly known as INS, Immigration and Naturalization Service)

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Notes

General Provisions

- Financial assistance in HUD's public housing program is restricted to:
  - Citizens
  - Noncitizens who have eligible immigration status
- Although PHAs may no longer "opt out" of Section 214 in its entirety, they may still opt out of one subsection of it. That subsection provides that no family applying for federal assistance may receive such assistance prior to the affirmative establishment and verification of eligibility of at least one family member.
- If a PHA elects not to affirmatively establish and verify eligibility before providing assistance to a family, the PHA must terminate the assistance if the verification process results in a determination that no family member has eligible immigration status.

Notification Requirements

- All families must be notified of the requirement to submit evidence of their citizenship status; new applicants must be notified when they apply.

Eligibility for Assistance

- To determine the family type and eligibility status of any family, the eligibility of each individual in the family must be established first.
- Individuals will fall into one of these categories:
  - Citizens or nationals
  - Eligible immigrants 62 or older
  - Other eligible immigrants
  - Ineligibles, including noncitizen students on student visas

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- Providing housing assistance to noncitizen students is prohibited.
  - This prohibition extends to the noncitizen spouse of a noncitizen student as well as to minor children who accompany or follow to join the noncitizen student
  - The prohibition does not extend to the citizen spouse of a noncitizen student or to the citizen children of the spouse and noncitizen student. Such a family is eligible for prorated assistance.
- Public Law 106-504, which was enacted on November 13, 2000, defines the geographic parameters by which aliens who are lawful residents of the Marshall Islands, the Federated States of Micronesia and Palau (together known as the Freely Associated States, or FAS) are eligible for housing assistance under section 141 of the Compacts of Free Association between the US Government and the Governments of the FAS. Notice PIH 2001-27 offers guidance on the implementation of the law.
  - PHAs must consider certain FAS citizens to be eligible applicants for federal housing assistance

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Notes

Family Categories

- After the status of each person has been determined, families will fall into one of the categories below:
  - All members are either citizens or eligible immigrants.
  - Some members are eligible and some are ineligible (mixed family).
  - All members are ineligible immigrants.
- The determination of family type is based on individual determinations:
  - An **eligible** family will be comprised of citizen(s), national(s) or noncitizen(s) with *eligible* immigrant status. Eligible families receive full assistance.
  - An **ineligible** family is one in which no member is a citizen, national, or eligible immigrant. Ineligible families are denied assistance.
  - **Mixed families** are comprised of citizen(s) or eligible noncitizen(s) and those without citizenship or eligible noncitizen status. Mixed families receive prorated assistance.

VERIFICATION REQUIREMENTS

- Unlike the third-party verification process for income eligibility, verification of citizenship or national status is provided directly by the family.
  - Persons who claim citizenship status by executing a signed declaration (Section 214 Status)
  - Persons 62 and older who claim eligible immigration status by executing a signed declaration and providing proof of age
  - Persons who declare themselves ineligible or don't contend eligibility status

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Notes

- PHAs may require verification of either U.S. citizenship or U.S. national declaration in the form of a U.S. passport, resident alien card, registration card, social security card, or other appropriate documentation.
- Verification is required by law for all other noncitizens who claim eligible immigration status (other than persons 62 and older). Required verification consists of:
  - A signed declaration of eligible immigration status
  - A U.S. Citizenship and Immigration Services (USCIS) card or other USCIS document
  - A signed verification consent form

Required Documentation

- PHA documents:
  - Declaration of Section 214 Status
  - Verification Consent Form
  - Listing of Non-Contending Family Members
  - Notice of Section 214 Requirements
- Eligible immigration documents [copies of originals only]
  - The list changes from time to time
  - Accept any original USCIS card
  - USCIS Alien Status Verification System (ASVS) via the Internet will tell you if card isn't eligible

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Notes

Timeframe for Submission

- For applicants:
  - At any stage of the application process, but not later than the date the PHA verifies other eligibility factors
- New occupants joining an assisted family:
  - At the first interim or regular reexam following the person's occupancy
- A time extension may be granted in writing by the PHA, if needed, for the individual to obtain the needed documentation.
  - Extension for submission of required documents shall not exceed 30 days
- For each family member this is a one-time requirement. If the family moves between units or between programs and the PHA has previously obtained the required verification, the family is not required to produce the documentation again.

Families assisted *as of* 6-19-95

- The protections afforded these families relates to whether the PHA implemented the noncitizens rule before or after 11/29/96[1].
- Families assisted when the noncitizen rule was implemented may have been eligible for full continued assistance.
- For more information refer to Chapter 10 of HUD Guidebook 7465.7, Restrictions on Assistance to Noncitizens, dated July 1995.

1. On this date, a change in the rule was published and effective. Families who had been provided certain protections prior to that date were not affected, but, after that date, any other families receiving benefits would be considered under the new rule.

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Notes

Termination for Allowing Ineligible Individuals to Live in Unit

- The Noncitizens Final Rule, published 5/12/99, requires that the PHA terminate assistance for at least 24 months to a family that knowingly permits an ineligible individual to reside on a permanent basis in the family's unit.
  - Termination does not apply to ineligible individuals already in the household where the family's assistance has been prorated.

Notes

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Notes

Section 6 Income Limits

Income Limits at Admission

- No family other than a low-income family is eligible for admission to a PHA's public housing program.
- HUD establishes income limits annually (by family size) for the area in which the PHA is located:
  - Low-income limit: 80% of area median
  - Very low-income limit: 50% of area median
  - Extremely low-income limit: At or below federal poverty level or 30% of area median, whichever number is higher (see *income targeting*)
- Annual income is compared to the income limit and is applied *only at admission* as a test for eligibility.
- Once admitted, a family is no longer subject to initial income limit requirements in order to retain eligibility, or for unit transfers.
- PHAs must use HUD income limits and may not establish their own.
- Because income limits are based on family size, a change in family composition may affect the family's income eligibility for admission.
- There is no family minimum income restriction.
- Transfers from other programs (other PHAs and Section 8) must be treated as new admissions.

HUD's Income Limits

- www.huduser.gov/portal/datasets/il.html

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Notes

Over-Income Families

- As set forth in 24 CFR 960.507, families participating in the public housing program must not have incomes that exceed the over-income limit for more than 24 consecutive months.
  - The over-income limit is distinct from income limits at admission.
  - The over-income limit is determined by multiplying the applicable very low-income limit (adjusted for family size) by 2.4.
  - An over-income family is defined as a family whose income exceeds the over-income limit.
  - However, PHAs with fewer than 250 public housing units may continue to lease public housing units to over-income families in accordance with 24 CFR 960.503[1].
- Over income-families are discussed in greater details in the Terminations chapter of this Master Book.

1. Notice PIH 2023-03

Notes

Section 7 Waiting List Management

INITIAL APPLICATION

Applicant Status

- An applicant does not have any "right" or entitlement:
  - To be listed on the waiting list
  - To any particular position on the waiting list
  - To be admitted to the program
- Applicants do have a right to bring a judicial action to challenge a PHA violation of a constitutional or statutory requirement.

Initial Application for Assistance

- All potentially eligible persons who express a desire to participate in the program must be given an equal opportunity to apply for assistance whenever the waiting list is open.
- The PHA is responsible for receiving and processing applications in a way which treats all applicants fairly and consistently.
- For each applicant, there must be a written application form for admission and placement on the waiting list. If using a paperless application system, the application must be printable if needed for an audit.
- HUD recommends that PHAs use a preapplication that collects only the information necessary to make a preliminary eligibility determination. A complete application is then taken just prior to the offer of a public housing unit.

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Notes

- An exception to this procedure is if the waiting list for the applicable bedroom size is short (e.g., families could be selected within six months).
  - The PHA may then bypass the preapplication and take a full application. In addition, the PHA could opt to take full applications for all families, regardless of the wait, but this is time-consuming.
- The HUD Inspector General suggests using the Personal Declaration Form at all (re)certification interviews.
- Applications may be taken by the PHA using any of the following methods:
  - On an ongoing basis
  - At specific hours of the day or days of the week
  - At regularly scheduled intervals (for example, quarterly)
  - For specific bedroom sizes only when the waiting list does not provide enough applicants to meet the PHA's needs
  - For a specific time period (for example, two weeks) when the PHA requires additional applicants to meet the PHA's needs
- Applications may be received by mail, phone, FAX, online, in person, at the PHA's offices, and/or other methods and locations as determined by the PHA.
- Form HUD-92006, Supplement to Application for Federally Assisted Housing, must be provided to families "at the time of application." The form gives the family the option to provide contact information for a friend, family member, organization, or advocate that can assist in providing services or special care to the family, and in resolving any tenancy issues that may arise.[1]
  - The family is not required to provide the information, but must still sign the form.
  - The PHA should give the family the opportunity to revise or remove contact information at admission, annual reexamination, or at any other time.

1. Notice PIH 2012-22

Notes

- The PHA must accept an application even if an informal discussion reveals the applicant may not be eligible (unless the waiting list is closed).
- Families should not be discouraged from applying or be rejected out of hand, based on "apparent ineligibility."
- Preapplications are acceptable with formal eligibility determination delayed until the family nears the top of the waiting list.
- Applicants must be admitted, placed on the waiting list, or rejected.
- If the family is obviously ineligible, the PHA must notify the applicant in writing of the:
  - Reason(s) for the determination, and
  - Family's right to an informal hearing.

Criteria for Who May Apply

- PHA may adopt criteria defining what families may apply under a public notice.
- May decide that applications will only be accepted from families who qualify for certain preferences.

Opening and Closing the Waiting List

- The PHA should develop policies on how they plan to inform the public when they open, close, or restrict the waiting list.
- The PHA may stop accepting new applications when the waiting list is adequate for the number of units available.
- PHA may adopt criteria defining what families may apply for assistance under a public notice.
  - For example, the public notice might announce that the PHA is only accepting applications for 1-bedrooms from elderly/disabled families.

Notes

REMOVAL FROM WAITING LIST

- The PHA Admissions Policy must state criteria for removal from waiting list, for example, failure to respond to requests for information or updates.
  - Purging of waiting list is up to PHA discretion.
  - Waiting list should be sufficient to fill available openings.
  - Policy must not violate rights of disabled persons under regulations, such as cases where the failure to respond was caused by the applicant's disability.
  - Must provide reasonable accommodation, such as home visits for those who cannot come to the office.
  - PHA is obligated to make the application process available to applicants with a full range of disabilities.
- PHAs must document the reason any applicant's name was removed from the waiting list.
- PHAs should not remove an applicant's name from the waiting list unless:
  - Applicant requests it,
  - Applicant was clearly advised of a requirement to notify the PHA of his/her continued interest by a particular time and failed to do so, or
  - PHA has made reasonable efforts to contact the applicant to determine if there is continued interest, but has been unsuccessful, or
  - PHA has notified the applicant of its intention to remove the applicant's name because of ineligibility

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Notes

ORGANIZING WAITING LISTS

General Requirements

- PHAs must organize the waiting list(s) to assure that applicant selection takes place according to Program requirements and PHA policy.
- The waiting list must be organized to indicate the following:
  - Family name
  - Family type (elderly, family member(s) with disabilities)
  - Date and time of application receipt
  - Unit size
  - Any admission preferences for which the family may be eligible
  - Whether special unit is needed
  - Racial and ethnic designation of head of household
- The waiting list must contain enough information to allow selection from the waiting list according to the PHA's Admissions and Continued Occupancy Policy (ACOP).
- Any system the PHA uses to maintain its waiting list must document how and when applicants are selected, in a way that allows for a clear, easy-to-understand HUD management review.
- The waiting list is the beginning of a "paper trail" and must enable a reviewer to immediately determine the selection process to compare with the PHA's policies.
- PHAs must organize their waiting lists in a manner which easily permits them to identify which applicants need which type of development, size and type of unit, and the priority each applicant has for admission based on the preferences and date and time.

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Notes

- Applicants must have an opportunity to apply and be considered for any or all the PHA's lists which are open to new applicants.
- Several sub-lists (or lists within lists) may be created in order to more easily identify who should be offered an available unit.
  - For example, elderly and disabled families for "mixed population" developments (formerly referred to as "elderly-designated" developments).

Site-Based Waiting Lists

- Upon approval by HUD, PHAs may adopt and implement site-based waiting lists.
  - PHA submits application to HUD before submission of the PHA Agency Plan, or
  - Includes in the PHA Agency Plan
- Purpose of site-based waiting lists:
  - Promote deconcentration of poverty; and
  - Assure that applicants can make informed choices

Background

- Many PHAs have centralized waiting lists. If units are being filled quickly and the eligibility function costs are reasonable, there may be little reason to make the change to a system of site-based waiting lists.
  - However, if the waiting list is not robust (enough applicants to fill units for at least a year), if applicants are "dropping out" because of the central office maze, if property managers have identified a need to establish policies to more thoroughly screen applicants, and/or if the unit offers are not made efficiently enough to fill units within an acceptable average number of days, the PHA may want to consider establishing site-based waiting lists.

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Notes

Waiting List Models

- There are a number of different site-based waiting list models, reflecting a continuum from fully centralized waiting lists to fully decentralized waiting lists.
- In the centralized model, advertising, intake, eligibility, and rent determinations are done in one place. Unit offers to approved families are community-wide. Typically, the applicant is offered a suitable unit in the location with the highest number of vacancies.
- The totally site-based model assigns complete responsibility and accountability to the property manager, who administers and monitors the waiting list entirely for the development. Applicants apply directly to the development in which they are interested (or leave an application with another development that is forwarded to that development), and the property manager administers the waiting list, from processing the application through to leasing the unit.
- There are also hybrid models, with a range of responsibilities of the centralized team and the property manager.
    - An example of a hybrid model could be where the centralized team manages the waiting list and centralized screening for drug and other criminal activity, but the property manager has the final approval in determining eligibility, which includes suitability. The property manager might call the present and former landlords for references.

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Notes

Specific Requirements for Site-Based Waiting Lists

- Each PHA's Annual Plan must address its procedures for maintaining waiting lists, and address any site-based waiting lists:
  - The PHA must submit PIC data in an accurate, complete, and timely manner. This means a 95% reporting rate.
  - You must provide full disclosure to each applicant of any option available in the selection of the developments: where all the developments are, the amenities, how many bedrooms, and an estimate of the period of time the applicant would likely have to wait to be admitted to units of different sizes and types (i.e. regular or accessible) at each site.
  - Also, a site-based waiting list system cannot violate any court order or settlement agreement or be inconsistent with a pending complaint brought by HUD.
  - Site-based waiting lists must be consistent with affirmatively furthering fair housing (AFFH). This includes reasonable marketing activities to attract applicants regardless of race or ethnicity.
  - The PHA must assess changes in racial, ethnic, or disability-related tenant composition at each PHA site, based upon PIC data, and remedy any problems.
  - The PHA must use independent testers or others means (as an alternative to independent testing) satisfactory to HUD at least every three (3) years to assure the site-based waiting list system is not implemented in a discriminatory manner.

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Notes

Section 8 Occupancy

OCCUPANCY STANDARDS

Definition

- Occupancy standards are criteria established by the PHA for determining the appropriate type of public housing development, and size and type of unit, needed for families of different sizes and compositions.

Types of Developments

Mixed Population Developments

- A mixed population development is a public housing development, or portion of a development, that:
  - Was reserved for elderly families and disabled families at its inception (and has retained that character), or
  - If it was not so reserved at inception, the PHA has since obtained HUD approval to give preference in tenant selection for all units in the development (or portion of development) to elderly and disabled families.
- Formerly referred to as "elderly-designated projects"
- PHAs must give elderly and disabled families equal preference in admission to mixed population developments.
- PHAs may not establish a limit on the number of elderly or disabled families to be accepted for occupancy in a mixed population development.
- PHAs may not set a minimum age (like 50 or 55) for the admission of persons with disabilities to mixed population developments.

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Notes

General Occupancy Developments

- Referred to as "family" developments
  - Includes elderly, disabled, and families
- PHAs may not give a preference to one protected class over another for general occupancy developments
  - Example: No elderly preference over families with children

Designated Elderly Developments

- Developments which include only families whose head or spouse/cohead is 62 or older
- HUD must approve application

Designated Disabled Developments

- Developments which include only families whose head or spouse/cohead is disabled
- HUD must approve application

Type of Unit Needed

- In selecting elderly families and disabled families to occupy units in mixed population developments, the PHA must first offer units with special accessibility features for persons with disabilities to families who require the accessibility features of such units.
- PHAs must make every reasonable effort to provide units which are specially designed for accessibility to families with members who have disabilities that require such units.
- Accessible or barrier-free units are specially designed units which may have ramps, grab bars, lower counters, or special facilities for those persons with mobility problems or sight or hearing impairments.

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Notes

- Many people with disabilities do not require a specially-designed unit.
- Some families that do not meet the HUD definition of a disabled family may need a specially designed unit for one of their family members.
- If a unit can be adapted to either disability-accessible or more general usage, the PHA can decide whether to target it for applicants with disabilities or treat it like any other unit.

Special Targeting Within Lists

- In public housing, if a family requires an accessible unit, it should be noted so that when that type of unit becomes available, the next family with that need can be quickly located.

Transfer vs. Waiting List for Accessible Units

- Before offering a vacant accessible unit to a non-disabled applicant, PHA should offer such units:
  - First, to a current occupant of another unit of the same or other development, having a disability that requires the special features of the vacant unit (in effect, a transfer of the occupant with disabilities from a non-accessible unit to the vacant accessible unit)
  - Second, to an eligible qualified applicant on the waiting list having a disability that requires the special features of the vacant unit.
- To avoid vacancies, and if there is no eligible applicant who requires a specially designed unit of a particular size, the PHA may wish to:
  - Slightly over-house an applicant needing a specially-designed but smaller unit, or
  - House an applicant needing that size unit but not requiring special features.

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- When offering a specially designed (accessible) unit to a non-disabled applicant, the PHA must require the applicant to sign an agreement to move to an available non-accessible unit within 30 days when either a current resident or an applicant with a disability needs the unit.
  - The lease agreement signed with the applicant must also contain this requirement.

Size of Unit Needed

- HUD does not specify the number of persons who may live in various sizes of units.
- The PHA must establish occupancy standards which assist as many families as possible without overcrowding the units or development, as well as make every reasonable effort to minimize vacancies.
- These standards must comply with any requirements of state or local law.
- PHAs may have different standards for certain developments if this would not cause or perpetuate patterns of occupancy which would be inconsistent with Title VI of the Civil Rights Act of 1964 or the Fair Housing Act.
- PHAs must establish deconcentration and income-mixing goals.
- PHAs may consider approaches to achieve goals of deconcentration and income mixing such as:
  - Skipping over certain families on waiting lists based on incomes
  - The establishment of certain preferences such as working preferences
  - Incentives

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Notes

- Guidelines which may be used include:
  - Generally, two persons per bedroom.
  - Persons of different generations, persons of the opposite sex (other than spouse), and unrelated adults should have separate bedrooms.
  - Husband and wife share same bedroom.
  - Children of same sex share a bedroom.
  - Children, with the possible exception of infants, should not share a bedroom with parents. (Define by policy.)
  - Live-in attendant(s) who is/are not family member(s) may have their own bedroom.
- PHA may assign a separate bedroom to: (1) persons of opposite sex (other than spouse), (2) persons of different generations, and (3) unrelated adults.
- In these cases, the PHA should allow the family to choose whether to opt for a larger or smaller size unit at application time.
- The PHA may also allow the family to be placed on both the larger and smaller size waiting lists.
- When determining unit size, PHAs must include all children anticipated to live in the dwelling unit. These include:
  - Children expected to be born to pregnant women
  - Children who are in the process of being adopted by an adult
  - Children whose custody is being obtained by an adult
  - Foster children
- NOTE: PHA should also include children who are temporarily absent from home due to placement in foster care.

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Notes

- The following table (or a variation) is an example that may be adopted:

Number of Bedrooms	Min. Number of Persons	Max. Number of Persons
0	1	1
1	1	2
2	2	4
3	3	6
4	4	8
5	6	10

- A family may need a larger unit size than suggested by the guidelines because of a disability of a household member.
- If "reasonable accommodations" are not made by the PHA allowing such a family to apply and obtain such a unit, it may be considered unlawful.

Other HUD Guidance

- PHA should consider the size of the unit and the size of the bedrooms as well as the number of bedrooms.
- PHAs may want to adopt standards which permit a lower level of occupancy in certain developments:
  - To compensate for lack of larger families on waiting lists, or
  - To help market units in hard-to-rent developments.
- A PHA may want to provide space for a child who is away at school but who lives with the family during school recesses.

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Notes

- To avoid vacancies, a family may be provided a larger unit than needed. The lease must include a provision that they will move to the right size unit when a larger size family is found and a suitable smaller unit is available.
- In designated elderly developments, non-elderly applicants may be offered a unit if there are not enough elderly applicants.

OCCUPANT TYPES

Tenants Employed by the PHA

- Public housing applicants who work or expect to work for the PHA are subject to the same admission requirements as other applicants.
  - The work they are to do for the PHA may not be a condition of their admission.
  - They may not be given a selection preference based on their willingness to work for the PHA.
- Public housing tenants who work for the PHA are subject to all of the occupancy requirements and have all the same rights and responsibilities as other public housing tenants.
  - The work they do for the PHA may not be a condition of their tenancy.
  - Any amounts they receive for their employment must be counted as income in computing their rent.
  - The PHA may not lower the amount they are required to pay as rent as compensation for their employment.
- The PHA does not need HUD authorization in order to employ public housing tenants.

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Notes

Resident Employees

- Employees who are required to live in public housing as a condition of their job:
  - Are not considered public housing tenants.
  - Are not subject to the same requirements and do not have the same rights as public housing tenants.
- Examples of this are that they:
  - Do not have to qualify as a low-income family
  - Are not subject to the PHA's tenant selection procedures
  - Do not have their rent calculated according to HUD regulations
  - Are not subject to HUD lease and grievance provisions
  - Would not be able to remain in public housing if their employment were terminated
- PHAs may charge employees who are required to live in public housing, as a condition of their job, some reasonable rent.
- The rent can be a flat amount not related to the person's income. PHAs may also provide the apartment to the employees rent-free.
- PHAs must get HUD approval to house PHA employees in any public housing dwelling unit which has been previously designated for use by public housing tenants.
- It is advisable for PHAs to have a lease with employees who are required to live in public housing.
- An employee who resides in public housing may apply to become a public housing tenant, but would have to qualify and be selected like any other applicant.
- The PHA does not fill out a Form HUD-50058 for resident employees.

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Notes

OCCUPANCY BY POLICE

- "Police officer" is defined as a person who, during the time of residence in public housing, is employed on a full-time basis as a duly licensed, professional police officer by a federal, state, or local government or by any agency of these governments.
- An officer of an accredited police force of a housing agency may qualify.
- For the purpose of increasing security for the residents of public housing, PHAs may allow police officers to reside in public housing.
- The PHA must include in the PHA's Agency/Annual Plan:
  - The number and location of units to be occupied by police officers
  - The terms and conditions of police officer tenancies
  - A statement that such occupancy is needed to increase public housing security for residents

Notes

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Notes

Section 9 Preferences

ADMISSION PREFERENCES

Background

- The Quality Housing and Work Responsibility Act of 1998 repealed the use of federal preferences effective October 1, 1998, and references to federal preferences were removed from HUD regulations as of 3/29/00.
- A PHA may choose to use as local preferences any of the preferences that were formerly known as federal preferences.
- A PHA may adopt a system of local preferences for selection of families admitted to the PHA's public housing program.

Current Regulations Governing Preferences

- Adoption and implementation of local preferences is subject to income targeting, and deconcentration and income-mixing requirements.
- In public housing, the size and type of unit, and type of development, take precedence over selection preferences.
- Preferences are optional.
- A preference overrides date and time of application. The more preferences a PHA has, the less impact date and time will have.
- Preferences affect only the order of applicants on a PHA's waiting list.
  - They do not make anyone eligible who was not otherwise eligible.

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- A PHA's selection preferences must be described in its PHA Plan.
- A PHA's system of local preferences must be consistent with its PHA Plan and the consolidated plan for the jurisdiction.
- A PHA must base its selection preferences on local housing needs and priorities, as determined by the PHA.
- A PHA should clearly define any preferences that it adopts.
  - The definitions should be simple enough so that:
    - Families claiming preferences clearly understand what they are claiming
    - Preferences can be easily verified
- A PHA must inform all applicants about available preferences and provide them with an opportunity to show that they qualify for available preferences.
- A PHA must use either of the following to select among applicants with the same priority for admission:
  - Date and time of application
  - A drawing or other random choice technique
- The method for selecting applicants must leave a clear audit trail to verify each applicant has been selected in accordance with the method specified in the PHA Plan.

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- If a PHA wishes to change its current preference system, the PHA must give notice and opportunity for public comment.
  - This requirement is applicable even if the new system is simply based on date and time of application.
  - An opportunity for public comment can be a public meeting or an opportunity to submit written comment.
  - The PHA may not implement the new preference system before the system has been added to the PHA's plan and approved by the Board.

LOCAL PREFERENCES IN CURRENT REGULATIONS

Residency Preference

- Residency requirements are prohibited, but residency preferences are allowed.
- A residency preference is a preference for admission of persons who reside in a specified geographic area.
  - The specified geographic area may be a county or municipality, but it may not be a smaller area.
- Residency preferences no longer require HUD approval, but they are subject to HUD audit and review for compliance with nondiscrimination and equal opportunity requirements.
- A residency preference must not be based on how long an applicant has lived or worked in the preference area.
- Applicants who work or have been hired to work in a residency preference area must be treated as residents of the preference area.
  - Graduates of or active participants in education and training programs in a residency preference area may be treated as residents of the area if the programs are designed to prepare individuals for the job market.

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Preference for Working Families

- A PHA may adopt a preference for working families.
  - A working family is one whose head, spouse, or sole member is employed.
    - A PHA must decide whether this includes a family in training.
- If a PHA adopts a preference for working families, it must extend the benefit of the preference to families whose head and spouse/cohead or sole member is age 62 or older or is a person with disabilities.
- A working family preference cannot be based on the amount of earned income.

Preference for Person with Disabilities

- A PHA may adopt a preference for admission of families that include a person with disabilities.

Preference for Mixed Population Developments

- The PHA must give equal preference to elderly families and disabled families in priority for admission to mixed population developments.
- Mixed developments can include a family with children; for example, an elderly person with a minor, or a disabled person and a minor.
- PHAs may not exclude elderly or disabled families with children from developments for the elderly/disabled having units of the appropriate size.
  - If an appropriate size unit exists in both a general occupancy development and a development for the elderly/disabled, the family may be assigned to the general occupancy development.
  - If children will be included in an elderly population, the PHA should consider an orientation program for both groups to help overcome apprehension.

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Notes

- The PHA must not establish a limit on the number of elderly families or disabled families who may be accepted for occupancy in mixed population developments.

Near-Elderly Preference for Public Housing

- The PHA may give a preference for "near-elderly" families over "displaced" or "other singles" in a mixed population development.
- The PHA may give a "near-elderly" preference over "displaced" and "other singles" in developments designated for elderly.
- A near-elderly preference is generally given when there are not enough elderly and disabled to fill mixed population developments or not enough elderly to fill designated elderly developments.
- Near-elderly families are defined as a family whose head or spouse/cohead is:
  - At least 50 years old, but
  - Under 62 years of age
- The PHA must conduct outreach to attract elderly families before adopting this discretionary preference.
- The PHA may admit eligible near-elderly families if there are elderly families on the waiting list but none of them is interested in moving into the development that has the vacancy.

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Notes

PREFERENCE FOR NON-PUBLIC HOUSING OVER-INCOME FAMILIES

- The PHA may give a preference for admission of non-public housing over-income families who are paying the alternative non-public housing rent and are on a NPHOI lease who become income-eligible and are eligible for admission to the public housing program.
  - These are former public housing families who still reside in the development but are paying the non-public housing rent and are on an NPHOI lease due to having been over-income for 24 consecutive months.

PREFERENCE PROHIBITIONS

- A PHA may not adopt a preference for admission of:
  - Persons with a specific disability
  - Families who agree to participate in the family self-sufficiency program
- A PHA may not give elderly a preference over families with children in general occupancy developments.

ADMISSION PROHIBITIONS

- Although a PHA can establish a preference system to admit families with certain characteristics from the waiting list, admission to the program must never be based on the following:
  - The presence of family members that include unwed parents, recipients of public assistance, or children born out of wedlock;
  - Family includes children;
  - Age, race, color, religion, sex, or national origin;
  - A family decision to participate in a family self-sufficiency program; and
  - Persons with a specific disability.

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Notes

USING PREFERENCES TO SELECT APPLICANTS

Weighing Preferences

- A PHA must develop a system for applying local preferences in selecting applicants. The methods for applying preferences include:
  - Lumping – all applicants who qualify for any preference are treated equally
  - Aggregating – two preferences outweigh one, three outweigh two, etc.
  - Ranking – ordering by number (applicants who qualify for the first preference are assisted first, etc.)

NOTICE OF PREFERENCE DENIAL

- The requirement to provide notice of preference denial was eliminated from the HUD regulations when the federal preference language was removed.
- PHAs may still wish to document local preference denial and provide the family with a method of disputing the denial.
- When the PHA determines an applicant does not qualify for a local preference, the PHA may choose to provide prompt, written notice of the determination.
- The notice should contain:
  - A brief statement of reasons for the determination, and
  - Notice that the applicant has a right to meet with a PHA representative to review the determination.
- The PHA could assign any PHA representative to meet with the family to discuss the denial of preference.

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Notes

Section 10 Interview Forms

- Form HUD-9886-A, Authorization for Release of Information/Privacy Act Notice, is a consent form that all adult family members (including the head and spouse, regardless of age) must sign.[1]
- HOTMA removes the requirement for participants to sign and submit the Form HUD-9886-A at every annual reexamination.
- On or after January 1, 2024, current program participants must sign the Form HUD- 9886-A at the next interim or regularly scheduled reexamination. After all applicants or participants over the age of 18 in a family have signed a consent form once on or after January 1, 2024, family members do not need to sign and submit subsequent consent forms at the next annual or interim reexamination except:
  - When any person 18 or older becomes a member of the family
  - When a family member turns 18 years of age
  - As required by HUD or in the PHA administrative instructions
- The PHA has the discretion to establish policies around when family members must sign consent forms when they turn 18. PHAs must establish these policies stating when family members will be required to sign consent forms at intervals other than at reexamination.
  - The executed form remains effective until:
  - The family is denied assistance, or
  - Assistance is terminated, or
  - The family provides written notification to the PHA to revoke consent.[2]
- PHA staff may not view information available through HUD's EIV system unless there is a signed Form HUD 9886-A in the household's file.

1. 24 CFR 5.230(b)(2)
2. EIV User's Manual

Notes

- Form HUD-9886-A authorizes both HUD and PHAs to obtain:
  - Information about wages and unemployment compensation from state wage information collection agencies (SWICAs)
  - Information about salary and wages from current and former employers
  - Information about unearned income from financial institutions[1]
- In addition, Form HUD-9886-A authorizes HUD alone to obtain:
  - Information about wages, self-employment income, and payments of retirement income from the Social Security Administration (SSA)
  - Information about unearned income from the Internal Revenue Service (IRS)
- Form HUD-9886-A may be used only for the purposes specified on the form.
- PHAs must generate other types of consent forms to verify items not covered under the Form HUD-9886-A.[2]
- While the family is obligated to release information to the PHA, this does not apply if the applicant or participant, or any member of the assistance applicant's or participant's family revokes their consent with respect to the ability of the PHA to access financial records from financial institutions, unless the PHA establishes a policy that revocation of consent to access financial records will result in denial or termination of assistance or admission.

1. HUD-9886
2. 24 CFR 5.323(c)

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OMB Control Number: 2577-0295

Use this form for reexaminations effective on or after January 1, 2024. Use form HUD-9886 for reexaminations effective prior to January 1, 2024.

Authorization for the Release of Information/Privacy Act Notice to the U.S. Department of Housing and Urban Development and the Housing Agency/Authority (HA)

U.S. Department of Housing and Urban Development, Office of Public and Indian Housing

PHA or IHA requesting release of information (full address, name of contact person, and date):

Authority: Section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, as amended by Section 903 of the Housing and Community Development Act of 1992 and Section 3003 of the Omnibus Budget Reconciliation Act of 1993. This law is found at 42 U.S.C. 3544. This law requires you to sign a consent form authorizing: (1) HUD, and the Housing Agency/Authority (HA) to request verification of salary and wages from current or previous employers; (2) HUD and the HA to request wage and unemployment compensation claim information from the state agency responsible for keeping that information; and (3) HUD to request certain tax return information from the U.S. Social Security Administration and the U.S. Internal Revenue Service.

Section 104 of the Housing Opportunity and Modernization Act of 2016. The relevant provisions are found at 42 U.S.C. 1437n . This law requires you to sign a consent form authorizing the HA to request verification of any financial record from any financial institutions as defined in the Right to Financial Privacy Act (12 U.S.C. 3401)), whenever the HA determines the record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits.

Purpose: In signing this consent form, you are authorizing HUD and the above-named HA to request income information from the sources listed on the form. HUD and the HA need this information to verify your household's income, in order to ensure that you are eligible for assisted housing benefits and that these benefits are set at the correct level. HUD and the HA may participate in computer matching programs with these sources in order to verify your eligibility and level of benefits.

Uses of Information to be Obtained: HUD is required to protect the income information it obtains in accordance with the Privacy Act of 1974, 5 U.S.C. 552a. HUD may disclose information (other than tax return information) for certain routine uses, such as to other government agencies for law enforcement purposes, to Federal agencies for employment suitability purposes and to HAs for the purpose of determining housing assistance. The HA is also required to protect the income information it obtains in accordance with any applicable State privacy law. HUD and HA employees may be subject to penalties for unauthorized disclosures or improper uses of the income information that is obtained based on the consent form. **Private owners may not request or receive information authorized by this form.**

Who Must Sign the Consent Form: Each member of your family who is 18 years of age or older must sign the consent form. Additional signatures must be obtained from new adult members joining the family or whenever members of the family become 18 years of age.

Persons who apply for or receive assistance under the following programs are required to sign this consent form:

Public Housing
Housing Choice Voucher
Section 8 Moderate Rehabilitation

Failure to Sign Consent Form: Your failure to sign the consent form may result in the denial of eligibility or termination of assisted housing benefits, or both. Denial of eligibility or termination of benefits is subject to the HA's grievance procedures and Section 8 informal hearing procedures.

Revocation of consent: If you revoke consent, the PHA will be unable to verify your information, although the data matches between HUD and other agencies will continue to automatically occur in the Enterprise Income Verification (EIV) System if the family is not terminated from the program.

Sources of Information to be Obtained

State Wage Information Collection Agencies. (This consent is limited to wages and unemployment compensation I have received when I have received assisted housing benefits.)

U.S. Social Security Administration (HUD only) (This consent is limited to the wage and self-employment information and payments of retirement income as referenced at Section 6103(l)(7)(A) of the Internal Revenue Code.)

U.S. Internal Revenue Service (HUD only) (This consent is limited to unearned income [i.e., interest and dividends].)

Information may also be obtained directly from: (a) current and former employers concerning salary and wages; and (b) financial institutions as defined in the Right to Financial Privacy Act (12 U.S.C. 3401), whenever the HA determines the record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits. I understand that income information obtained from these sources will be used to verify information that I provide in determining eligibility for assisted housing programs and the level of benefits. Therefore, this consent form only authorizes release directly from employers and financial institutions of information.

Consent: I consent to allow HUD or the HA to request and obtain income information from the sources listed on this form for the purpose of verifying my eligibility and level of benefits under HUD's assisted housing programs. I understand that HAs that receive income information under this consent form cannot use it to deny, reduce or terminate assistance without first independently verifying what the amount was, whether I actually had access to the funds and when the funds were received. In addition, I must be given an opportunity to contest those determinations.

This consent form remains effective until the earliest of (i) the rendering of a final adverse decision for an assistance applicant; (ii) the cessation of a participant's eligibility for assistance from HUD and the PHA; or (iii) The express revocation by the assistance applicant or recipient (or applicable family member) of the authorization, in a written notification to HUD or the PHA.

Signatures:

Head of Household	Date		
Social Security Number (if any) of Head of Household		Other Family Member over age 18	Date
Spouse	Date	Other Family Member over age 18	Date
Other Family Member over age 18	Date	Other Family Member over age 18	Date
Other Family Member over age 18	Date	Other Family Member over age 18	Date

Privacy Advisory. Authority: The Department of Housing and Urban Development (HUD) is authorized to collect this information by the U.S. Housing Act of 1937 (42 U.S.C. 1437 et. seq.), Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), and by the Fair Housing Act (42 U.S.C. 3601-19). Purpose: This form authorizes HUD and the above-named HA to request income information to verify your household's income in order to ensure that you are eligible for assisted housing benefits and that these benefits are set at the correct level. Failure to provide any of the requested information may result in a delay or rejection of your eligibility approval.

Penalties for Misusing this Consent: HUD and the HA (or any employee of HUD or the HA) may be subject to penalties for unauthorized disclosures or improper uses of information collected based on the consent form. Use of the information collected based on the form HUD 9886 is restricted to the purposes cited on the form HUD 9886. Any person who knowingly or willfully requests, obtains, or discloses any information under false pretenses concerning an applicant or participant may be subject to a misdemeanor and fined not more than $5,000. Any applicant or participant affected by negligent disclosure of information may bring civil action for damages, and seek other relief, as may be appropriate, against the officer or employee of HUD or the HA for the unauthorized disclosure or improper use.

OMB Burden Statement. The public reporting burden for this information collection is estimated to be 0.16 hours for new admissions and .08 hours for household members turning 19, including the time for reviewing, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Collection of information income and assets is required for program eligibility determination purposes. The submission of the consent form is necessary (form-HUD 9886) so that PHAs can carry out the requirements of Section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, as amended by Section 903 of the Housing and Community Development Act of 1992 and Section 3003 of the Omnibus Budget Reconciliation Act of 1993 (42 U.S.C. 3544) and Section 104 of HOTMA to ensure that HUD and PHAs can verify eligibility and income information for applicants and participants. This information collection is protected from disclosure by the Privacy Act. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions to reduce this burden, to the Office of Public and Indian Housing, US. Department of Housing and Urban Development, Washington, DC 20410. When providing comments, please refer to OMB Approval No. 2577-0295. HUD may not conduct and sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

UNIT 5 Tenant Selection

Section 1 Tenant Selection Policies

INCOME TARGETING

- In each fiscal year, at least 40 percent of a PHA's new admissions to public housing must have incomes that do not exceed the federal poverty level or 30 percent of the area median income as published by HUD, whichever number is higher.
- HUD refers to this income group as extremely low-income families.
- PHA's preference system must result in compliance with income targeting requirements.

Fiscal Year Requirements

- The PHA should apply fiscal year income targeting requirements on the same annual basis as the fiscal year of the PHA's public housing program.
- Income targeting requirements are not to be used to concentrate very low-income families in one development or building.
- In this case, "very low-income" families would include other families with relatively low incomes.

OVER-INCOME FAMILIES OPTION FOR SMALL PHAS

- Small PHAs (with fewer than 250 public housing units) may rent units to over-income families on a month-to-month basis, in accordance with statutory requirements, if there are no eligible families applying for assistance for that month.
- The over-income families must agree to vacate (with at least 30 days' notice) the unit when it is needed for an income-eligible family.

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- Before the PHA elects to house over-income families when other families are not available, the PHA must publish a 30-day notice of available units in at least one newspaper of general circulation.

INCOME MIXING

- PHAs should design selection criteria to produce a mix of incomes in public housing developments.
- HUD requires the PHA to establish goals which are designed to bring higher income tenants into lower income public housing developments and bring lower income tenants into higher income public housing developments.
  - The PHA must determine and compare the relative tenant incomes of each development
  - Develop incentives to attract higher-income families into lower-income developments and lower-income families into higher-income developments
  - PHAs must devote appropriate attention to these goals and make any appropriate changes in their site-based admission policies.

DECONCENTRATION OF POVERTY

Background

- Applicable to PHAs with fiscal years commencing on and after October 1, 2001
- Rule applies to applicants to public housing and residents seeking voluntary transfers within public housing developments

Applicability

- Applies to general occupancy (family) public housing developments
  - These are referred to as “covered” developments

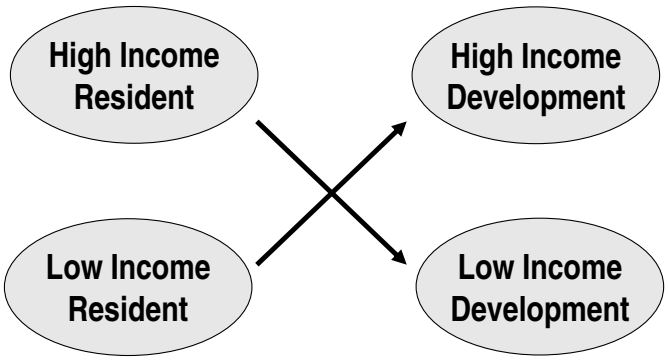
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Notes

Not Subject to Deconcentration Requirement

- PHAs with under 100 public housing units;
- PHAs which house only elderly persons or persons with disabilities, or both;
- Developments operated by a PHA which consist of only one general occupancy (family) development;
- Developments approved for demolition or for conversion to tenant-based assistance; and
- Developments which include public housing units operated in accordance with a HUD-approved mixed-finance plan using HOPE VI or public housing funds awarded before the effective date of the rule (March 7, 2001).
  - Provided that the PHA certifies (and includes reasons for the certification) as part of its PHA Plan that exemption from the regulation is necessary to honor an existing contractual agreement or be consistent with a mixed-finance plan.

The "X Factor" Concept



- High income resident to low income development
- Low income resident to high income development

Notes

Determination of Compliance with Deconcentration Requirement

- HUD will consider a PHA to be in compliance with the deconcentration requirement if:
  - The PHA's income analysis shows that the PHA has no general occupancy (family) developments to which the deconcentration requirements apply;
  - The average incomes of all covered developments are within the EIR;
  - The PHA has covered developments with average incomes above or below the EIR and the PHA provides sufficient explanation in its PHA Plan that supports that the income mix of these development(s) is consistent with and furthers the goal of deconcentration and income mixing, and the PHA therefore need not take further action to deconcentrate poverty; or
  - The PHA's deconcentration policy provides specific strategies the PHA will take that can be expected to promote deconcentration of poverty and income mixing.

Deconcentration vs. Income Targeting

- Nothing in the deconcentration rule relieves PHAs of their obligation to meet the income targeting requirement.

Notes

Section 2 Evaluating Final Eligibility

STANDARDS FOR TENANT SELECTION CRITERIA

- Tenant selection criteria must relate to individual attributes of applicants, not to a group or category of persons of which the applicant may be a member.
- The objectives of tenant selection are to:
  - Avoid concentration of families with serious social problems in PHA developments
  - Determine whether the conduct of the applicant in present or prior housing has been such as to increase the likelihood of interference with other tenants' right to peaceful enjoyment of the premises
  - Determine whether present or past conduct of the applicant indicates that admittance of the applicant into public housing would likely have an adverse effect on the health, safety, welfare, or otherwise physical environment of the development
  - Determine whether the present or past conduct of the applicant indicates that if the applicant were admitted to the development, it would likely have an adverse effect on the financial stability of the development

TENANT SELECTION POLICIES

- PHAs are required to adopt written policies for admission of tenants, and these policies are subject to HUD review at any time upon request. Admission policies must be designed:
  - To assure a broad range of incomes in each PHA development (to the extent feasible), and to avoid concentrations of the most economically deprived families with serious social problems.
  - To prevent admission of applicants whose habits and practices would be a detriment to other residents and the PHA environment.
  - To give local preferences to those who qualify in accordance with HUD regulations.
  - To establish policies which are reasonable and objective for selection among otherwise eligible families.

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- Tenant selection policies must include:
  - Requirements for applications and waiting lists.
  - Description of policies for selection from the waiting list, including how any local or residency preferences will be used.
  - Policies for verifying factors pertaining to acceptance or rejection of applicants.
  - Policies for transfer of participants between units, developments, and programs. For example, a PHA could develop criteria such as "...has met all previous obligations under current program, including payment of any and all charges due to the PHA."

SUITABILITY

- The PHA should fairly and objectively determine whether the family will be a suitable tenant.
- Normal screening should look at past conduct as an indicator of future conduct.
- Relevant information respecting habits or practices to be considered may include, but is not limited to:
  - An applicant's past performance in meeting financial obligations, especially rent;
  - A record of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences which may adversely affect the development; and
  - A history of criminal activity involving crimes of physical violence to persons or property and other criminal acts which would adversely affect the development.

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  - When determining whether to deny admission based on criminal activity in cases when there is a record of arrest, the PHA 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

- In the event the PHA receives unfavorable information with respect to an applicant, consideration shall be given to the time, nature, and extent of the applicant's conduct and to factors which might indicate a reasonable probability of favorable future conduct (does not apply to statutory methamphetamine or lifetime sex offender regulations).

- The PHA may look at:
  - Evidence of rehabilitation
  - Evidence of family's participation in counseling service programs
  - Availability of such counseling service programs
  - Evidence of the applicant's efforts to attempt to increase family income
  - Availability of training or employment programs in the locality

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- The PHA's authority in this area is limited by the Violence Against Women Act (VAWA), which expressly prohibits the denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.
- The PHA may also deny admission to applicants who currently owe rent or other amounts to the PHA in connection with public housing or housing choice voucher programs.
- Collection alternatives may be offered in lieu of denial with a specific timetable for repayment incorporated into the lease.
- Home visits and interviews provide valuable information for making determination of suitability for tenancy.
- A family who has a mixed credit record, or one good and one bad prior reference from a landlord, would be an example of when a home visit would be helpful.
- The PHA could consider cases in which the family is likely to improve its financial situation because:
  - Its rent will be lower once it is admitted; or
  - It is participating in a job training program or has improved job prospects which will probably result in higher family income.
  - The family would be able to receive vendor payments.
- The final determination should take into consideration that when a marginal applicant is admitted, an applicant who clearly meets the standards is not admitted.

DENIAL OF ADMISSION

- In considering the elements discussed below, the PHA's focus should *not* be on whether the applicant or tenant happens to have a disability.

Notes

Screening for Drug Abuse and Other Criminal Activity

- On May 24, 2001, HUD released the Final Rule on "Screening and Eviction for Drug Abuse and Other Criminal Activity."
  - The effective date is June 25, 2001.
- Up until the Final Rule was published, the Proposed Rule's provisions, referred to as "One Strike," were in effect as of October 1, 1999, based on QHWRA Guidance and instructions issued by HUD on December 22, 1999.
- The Final Rule does not include the term "one strike."
- The purpose of the Screening and Eviction Final Rule was to provide PHAs with tools to adopt and implement fair, effective and comprehensive policies for screening out applicants who engage in illegal drug use or other criminal activity.
- HUD clarified the distinction between denial actions that are mandated and those that are permitted for PHAs.
- In addition to implementing the mandatory provisions, HUD does not impair existing authority of the PHA to deny admission for criminal activity:
  - Other than that specified in the rule, or
  - Which has taken place at times other than those specified.
- Also, although the rule provided a mechanism for obtaining access to criminal records, HUD recognizes that many PHAs use other means of obtaining that information.
  - HUD's final rule did not affect those other means.
  - HUD cautions PHAs to handle any information obtained about criminal records in accordance with applicable state and federal privacy laws and with the provisions of the consent forms signed by applicants.

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Notes

Required Denial of Admission

- PHA denial is *required* for the following persons:

1. Persons evicted for drug-related criminal activity

- PHA standards must prohibit admission of an applicant to public housing for three years from the date of the eviction if any household member has been evicted from federally assisted housing for drug-related criminal activity.
  - *Drug-related criminal activity* means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute, or use the drug.
- However, the PHA may admit the family if the PHA determines:
  - The evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by the PHA; or
  - The circumstances leading to the eviction no longer exist (for example, the criminal household member has died or is imprisoned).

2. Persons engaging in illegal use of a drug

- The PHA must establish standards that prohibit admission of a family to the PHA's public housing program if:
  - The PHA determines that any household member is currently engaging in illegal use of a drug; or
  - The PHA determines that it has reasonable cause to believe that a household member's illegal use or pattern of illegal use of a drug may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

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3. Persons convicted of methamphetamine production

- The PHA must establish standards that permanently prohibit admission to public housing if any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.

4. Persons subject to lifetime sex offender registration requirement

- The PHA must establish standards that prohibit admission to public housing if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program.
- In the screening of applicants, the PHA must perform necessary criminal history background checks in the state where the housing is located and in other states where household members are known to have resided.
  - Notice PIH 2012-28 specifies how this requirement can be fulfilled. Whichever method the PHA chooses must be included in its admissions and continued occupancy policy.[1]
- Should the process reveal an applicant's household includes an individual subject to a state lifetime registered sex offender registration, the PHA must offer the family the opportunity to remove that individual from the household.

1. Notice PIH 2012-28

Notes

5. Persons that abuse or show a pattern of abuse of alcohol

- The PHA must establish standards that prohibit admission to public housing if the PHA determines that it has reasonable cause to believe that a household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

Other Mandatory Denials

- No family member establishes eligible citizenship or immigration status
- SSN disclosure requirements not met
- Any family member fails to sign and submit required consent forms (unless the family revokes consent and PHA policy does not require denial)

Restriction on Assistance Based on Assets

- There are two circumstances under which a family is ineligible for the program based on asset ownership.
  - First, assistance may not be provided to any family if the family's net assets exceed $109,797 (adjusted annually for inflation).
  - Second, the family has real property that is suitable for occupancy by the family as a residence and the family has:
    - A present ownership interest in the real property;
    - A legal right to reside in the real property; and
    - The effective legal authority to sell (based on state or local laws of the jurisdiction where the property is located) the real property.

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- However, the real property restriction does not apply in the following circumstances:
  - Any property for which the family is receiving assistance for a manufactured home under 24 CFR 982.620 or under the HCV Homeownership program
  - Any property that is jointly owned by a member of the family and at least one non-household member who does not live with the family, if the non household member resides at the jointly owned property
  - Any family that is offering the property for sale
  - Any person who is a victim of domestic violence, dating violence, sexual assault, or stalking
    - When a family asks for an exception because a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, the PHA must comply with all the confidentiality requirements under VAWA. The PHA must accept a self-certification from the family member, and the restrictions on requesting documentation under VAWA apply.
- A property is considered suitable for occupancy unless the family demonstrates that it:
  - Does not meet the disability-related needs for all members of the family (e.g., physical accessibility requirements, disability-related need for additional bedrooms, proximity to accessible transportation, etc.);
  - Is not sufficient for the size of the family;
  - Is located so as to be a hardship to the family (e.g., the location would be a hardship for the family's commute to work or school);
  - Is unsafe because of physical condition; or
  - Is not a property that a family may reside in per local and state laws (e.g., a storefront zoned for commercial use only).
- The PHA may determine compliance based on a certification by a family that the family does not have any present ownership interest in any real property at the time of the income determination or review.

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Notes

Standards for PHA Tenant Selection Criteria

- HUD does not impair the authority of the PHA to deny admission for criminal activity other than that specified in the regulations or which has taken place at times other than those specified.
  - However, the PHA must be vigilant that policies do not violate civil rights.
- The PHA may also deny admission to applicants who currently owe rent or other amounts to the PHA in connection with public housing or Section 8 programs. [1]
- Collection alternatives may be offered in lieu of denial with a specific timetable for repayment incorporated into the lease.[2]
- PHAs are required to provide applicant the "Debts Owed to Public Housing Agencies and Terminations" form.
  - Each adult household member must sign the form.
- For denials that are not required by HUD, in the event of the receipt of unfavorable information with respect to an applicant, consideration shall be given to:[3]
  - The time, nature and extent of the applicant's conduct including the seriousness of the offense.
  - In a manner consistent with the PHA's policies, procedures and practices of this section, consideration may be given to factors which might indicate a reasonable probability of favorable future conduct, for example:
    - Evidence of rehabilitation; and
    - Evidence of the applicant family's participation in or willingness to participate in social service or other appropriate counseling service programs and the availability of such programs.

1. HB 7465.1, para. 4-1(a)
2. HB 7465.1, para. 4-1(b)
3. CFR 960.203

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Notes

- Home visits and interviews provide valuable information for making determination of suitability for tenancy.[1]
  - A family who has a mixed credit record, or one good and one bad prior reference from a landlord, would be an example of when a home visit would be helpful.[2]
- Home visits may not be useful for families who do not live alone while on the waiting list.
- The Public Housing Occupancy Guidebook provides some sample forms for families who are not living independently.
  - Verification of Ability to Comply with Lease Terms (third party completes)
  - PHA Checklist – Ability to Comply with Lease Terms (applicant completes)
- The PHA could consider cases in which the family is likely to improve its financial situation because:[3]
  - Its rent will be lower once it is admitted; or
  - It is participating in a job training program or has improved job prospects which will probably result in higher family income.
- Applicant's behavior toward PHA staff should be considered in relation to future behavior toward neighbors[4]
  - Physical or verbal abuse or threats
  - May be basis for denial
- PHA should run criminal background check for all jurisdictions where family lived for at least the last three years.

1. HB 7465.1, para. 4-1(b)
2. HUD Guidance
3. HUD Guidance
4. HUD Guidance

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Notes

- Ability to comply with lease terms
  - Some PHAs require additional check for elderly and disabled families only
    - Unlawful violation of civil rights
    - Assumption based on membership in protected class rather than individual attributes
- The final determination should take into consideration that when a marginal applicant is admitted, an applicant who clearly meets the standards is not admitted.
- In screening with respect to criminal activity:
  - The PHA may require an applicant to exclude a household member in order to be admitted to the housing program, where that household member has participated in or been culpable for actions that warrants denial.
  - The PHA may, where a statute requires that the PHA prohibit admission for a prescribed period of time after some disqualifying behavior or event, choose to continue that prohibition for a longer period of time.

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Notes

Violence Against Women Act (VAWA)

Notification and Certification

- PHAs are required to provide the Notice of Occupancy Rights (HUD-5380) and certification form (HUD-5382) at admission and along with any notice of denial.
  - The Notice of Occupancy Rights is the official HUD informing notice.
- Individuals requesting protection cannot be required to provide additional third-party documentation, although the PHA may require third-party documentation if more than one applicant or tenant provides documentation (e.g., two household members each claiming to be the victim and the other the perpetrator) or the submitted documentation contains information that conflicts with existing information already available to the PHA.
  - In such cases, the applicant has 30 calendar days from the date of the PHA's request to submit third-party documentation.
  - Notice PIH 2017-08 provides several clarifications and considerations with respect to requesting third-party documentation in cases where information conflicts.
- In addition, PHAs and owners may not conduct further "fact finding" to verify the validity of victim status, although if the PHA or owner already has or receives reliable conflicting information, they may require additional third-party documentation, as noted above.[1]
- See Chapter 3 for detailed instructions.

1. Notice PIH 2017-08

Notes

Perpetrator Removal or Documentation of Rehabilitation

- In cases where the applicant family includes the perpetrator as well as the victim, the PHA should proceed as above but should require either:
  - That the perpetrator be removed from the household and not reside in the unit; or
  - That the family provide documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment.
    - If the family chooses the second option, the documentation must be signed by an employee or agent of a domestic violence service provider or administrative agency, or by a mental health, medical, or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse.
    - PHA policy should require that the signer attest under penalty of perjury to his or her belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

PHA Confidentiality Requirements

- All information provided to the PHA regarding domestic violence, dating violence, sexual assault, stalking, or human trafficking must be retained in confidence and not entered into any shared database or provided to any related entity, except if:
  - The disclosure is requested or consented to by the individual in writing;
  - Is required for use in an eviction proceeding; or
  - Is otherwise required by applicable law.

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- For safety and legal reasons surrounding liability to the PHA and harm to a victim, a PHA may want to consider having all VAWA situations handled by a single staff member to limit access and knowledge with regards to the certification process and details regarding the abusive situation.
  - Notice PIH 2017-08 offers guidance and best practices for proper communication with victims, specifically for avoiding inadvertent disclosure of information and ensuring the safety of the victim.

Consideration of Rehabilitation

- In determining whether to deny admission for illegal drug use or a pattern of illegal drug use by a household member who is no longer engaging in such use, or for abuse or a pattern of abuse of alcohol by a household member who is no longer engaging in such abuse, the PHA may consider:
  - Whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or
  - Has otherwise been rehabilitated successfully.
- For this purpose, the PHA may require the applicant to submit evidence or documentation.
- If rehabilitation is not an element of the eligibility determination, the PHA may choose not to consider whether the person has been rehabilitated.

Notes

Drug Use by Applicants; Obtaining Information from Drug Treatment Facility

Definitions

- *Currently engaging in illegal use of a drug:* Illegal use of a drug occurred recently enough to justify a reasonable belief that there is continuing illegal drug use by a household member.
- *Drug abuse treatment facility:* An entity that holds itself out as providing, and provides, diagnosis, treatment, or referral for treatment with respect to the illegal drug use and is either an identified unit within a general care facility, or an entity other than a general medical care facility.

Authorization by Household Member for PHA to Receive Information from a Drug Abuse Treatment Facility

- The PHA may require each applicant to submit for all household members who are at least 18 years of age, and for each family head or spouse regardless of age, one or more consent forms signed by such household member that:
  - Requests any drug abuse treatment facility to inform the PHA only whether the facility has reasonable cause to believe that the household member is currently engaging in illegal drug use
  - Complies with the form of written consent
  - Authorizes the PHA to receive such information from the drug abuse treatment facility, and to utilize such information in determining whether to prohibit admission to the household member
- The consent form submitted for a proposed household member must expire automatically after the PHA has made a final decision to either approve or deny the admission of the person.

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PHA Request for Information from Drug Use Treatment Facility

- The PHA may request that a drug abuse treatment facility disclose whether the facility has reasonable cause to believe that the proposed household member is currently engaging in the illegal use of a drug.
  - The PHA's request to the facility must include a copy of the consent form signed by the proposed household member.
  - A drug abuse treatment facility is not liable for damages based on any information required to be disclosed under this provision if such disclosure is consistent with section 543 of the Public Health Service Act.
  - The PHA is not obligated to request information from a drug treatment facility, and is not liable for damages for failing to request or receive such information.
  - A drug abuse treatment facility may charge the PHA a reasonable fee for information provided.

Prohibition of Discriminatory Treatment of Applicants

- A PHA may request information from a drug abuse treatment facility only if the PHA has adopted and has consistently implemented either of the following policies, obtaining a signed consent form from the proposed household members:

- **Policy A – Request for all families:**
  - Under Policy A, the PHA must submit a request for information to a drug abuse treatment facility before admitting any family to public housing. For each such family, the request must be submitted for each proposed household member.

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- **Policy B – Request for certain household members:**
  - Under Policy B, the PHA must submit a request to a drug abuse treatment facility only with respect to each proposed household member:
    - Whose criminal record indicates prior arrest or conviction for any criminal activity that may be a basis for denial of admission; or
    - Whose prior tenancy records indicate that the proposed household member:
      - Engaged in the destruction of property;
      - Engaged in violent activity against another person; or
      - Interfered with the right of peaceful enjoyment of the premises of other residents.

Confidentiality of Information

- Each PHA that receives information from a drug abuse treatment facility must establish and implement a system of records management that ensures that any information which the PHA receives from the facility about a person:
  - Is maintained confidentially
  - Is not misused or improperly disseminated
  - Is destroyed, as applicable:
    - Not later than 5 business days after the PHA makes a final decision to admit the person; or
    - If the PHA denies the admission of such person as a household member, in a timely manner after the date on which the statute of limitations for the commencement of a civil action based on that denial has expired.

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Notes

PHA Access to Criminal Records and Information

Special Authority

- The "Screening and Eviction Final Rule" authorizes PHAs to obtain criminal records from a law enforcement agency to screen applicants for admission to public housing.
  - *Law enforcement agency* is defined as the National Crime Information Center (NCIC), police departments, and other law enforcement agencies that hold criminal conviction records.
- Other definitions relating to access of records:
  - *Adult* is a person who is 18 years of age or older or who has been convicted of a crime as an adult under any federal, state, or tribal law.
  - *Responsible entity* means a PHA administering a public housing program under an annual contributions contract with HUD.
- To obtain records under the authority of 24 CFR 5.903, PHAs must require that every applicant family submit a consent form and that the form be signed by each adult household member.
- Following a PHA request, a law enforcement agency:
  - Must send promptly to the PHA a certified copy of any criminal conviction records concerning the household member that the law enforcement agency has possession of or control over
  - May charge the PHA a reasonable fee for releasing the criminal conviction records
- A PHA may not pass along to an applicant the costs of a criminal records check.

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Permitted Use and Disclosure

- PHAs are permitted to use criminal records obtained under the authority of 24 CFR 5.903 only for:
  - Applicant screening
  - Lease enforcement and eviction of public housing residents
- A PHA may disclose the criminal records that it receives from a law enforcement agency under the authority of 24 CFR 5.903 only to:
  - Officers or employees of the PHA
  - Authorized representatives of the PHA with a job-related need to access the information (for example, a PHA hearing officer conducting an administrative grievance hearing concerning a proposed eviction)
- If disclosure of criminal records obtained under the authority of 24 CFR 5.903 is necessary in connection with judicial proceedings, a PHA is not responsible for controlling access to or knowledge of the records after the disclosure.

Opportunity to Dispute

- If a PHA's decision to deny admission to an applicant, enforce a lease, or evict a tenant is based on criminal records or sex offender information, the PHA must notify the household of the proposed action and:
  - Supply the subject of the record and the applicant or tenant with a copy of the information
  - Provide the opportunity for the subject and the applicant or tenant to dispute the accuracy and relevance of the information before the denial or eviction action

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Records Management

- PHAs must have a system of records management that ensures that criminal records received from a law enforcement agency under the authority of 24 CFR 5.903 are:
  - Maintained confidentially
  - Not misused or improperly disseminated
  - Destroyed once the purpose for which the records were requested has been accomplished, including expiration of the period for filing a challenge to the PHA action or final disposition of litigation

Improper Release and Civil Liability

- HUD regulations under 24 CFR 5.903 provide for conviction for a misdemeanor and fine of not more than $5,000 for:
  - Any person who knowingly and willfully requests or obtains criminal records information under false pretenses
  - Any person who knowingly and willfully discloses criminal records information to any individual not entitled under law to receive the information
- A PHA may be liable to applicants or tenants affected by:
  - Negligent or knowing disclosure of criminal records information obtained by an officer, employee, or authorized representative if the disclosure is not authorized by the regulations
  - Any other negligent or knowing action inconsistent with applicable regulations
- Applicants or tenants may bring civil action for damages.

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Special Authority to Access Sex Offender Registration Information

- A PHA that administers public housing under an annual contributions contract (ACC) with HUD must carry out background checks necessary to determine whether applicants are subject to a lifetime state sex offender registration program.
- The background checks must be carried out in the state where the housing is located and in states where the household members are known to have resided.
  - With regard to this requirement, Notice PIH 2012-28 states explicitly that applicants for admission into HUD-assisted housing programs must provide a complete list of all states in which any household member has resided.
  - Alternatively, PHAs may use a national database covering sex offender registries in all states, such as the Dru Sjodin National Sex Offender Public Website, in lieu of asking for a complete list of states on the application.
    - The Dru Sjodin National Sex Offender Public Website can be found at: http://www.nsopw.gov
  - The PHA must state which of the two methods listed above it will use in its Admissions and Continued Occupancy Policy (ACOP).
- The state or local agency that collects and is responsible for sex offender registration information must provide a PHA with requested information in a prompt manner.
- The state or local agency providing sex offender registration information to a PHA may charge a reasonable fee for the service.

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- The same requirements for access to criminal records apply to sex offender registration information regarding:
  - Records management
  - PHA obligation to notify the household
  - PHA obligation to provide a copy of the information to the subject of the record and the applicant or tenant
  - Household opportunity to dispute the information
- However, while PHAs must destroy the results of a criminal background check in accordance with the records management requirements in 24 CFR 5.905, a record of the screening, including the type of screening and the date performed, must be retained.
- The records management requirements for sex offender registration information do not apply to information that is considered public or that is obtained by a PHA other than under the authority of 24 CFR 5.905.

ADMISSION OF APPLICANTS WITH DISABILITIES

- Applicants with disabilities who do not meet PHA's criteria for suitability for tenancy must be admitted if they can meet PHA's criteria for suitability through "reasonable accommodations."
- PHAs may not require a physical examination as a condition of admission.
- PHAs may not impose conditional leases requiring persons with disabilities to participate in supportive activities.

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Notes

- If an applicant cannot provide customary information requested such as landlord references and credit reports, the PHA should consider other sources of information:
  - Personal references
  - Institutions where the applicant has lived
  - Doctors
  - Therapists and service agency personnel
- Objectionable behavior that impacts on a disabled applicant's ability to fulfill essential lease obligations may be the basis for rejection if such behavior cannot be corrected by "reasonable accommodations" even if the behavior is related to the disability. These may include:
  - Failure to pay rent
  - Disturbing neighbors
  - Destroying property
  - Living or housekeeping habits adversely affecting the health, safety, or welfare of other tenants
- The PHA must not assume the presence of a disability automatically disqualifies an applicant for participation in a program or for a particular unit or type of unit.

SUITABILITY STANDARDS FOR CURRENT TENANTS

- The same standards of tenant suitability used for applicants should be used for a person or persons joining a family already in occupancy.
- The PHA should determine that the person meets its standards prior to adding that person's name to the family's lease.

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Notes

NOTICE TO INELIGIBLE APPLICANTS

- If an applicant is determined ineligible, the notice must state:
  - The reason(s) why the applicant is ineligible;
  - That the applicant may request an informal hearing.

APPLICANT SELECTION PROCEDURES

- The PHA must offer the unit to an applicant needing that size and type of unit in that type of development.
- The PHA must make the offer in sequence, until someone accepts it, in order of priority, based on the tenant selection plan and date and time, using the local preference list.
- PHAs can match characteristics of the family with types of units available, for example, number of bedrooms.
- PHAs must give preference to families that include person(s) with disabilities for units with specific accessibility features.
- The PHA must adopt procedures limiting the duration of a vacancy, due to turnover, to the minimum amount of time necessary.
- Each PHA must follow its tenant selection plan, adopted by the PHA and approved by the board, which describes the PHA's offer system and the procedures for dropping applicants who refuse the offers to the bottom of the waiting list.
- The PHA must specify an offer system and include it in the Admissions & Continued Occupancy Policy and in the PHA's Agency Plan.
- If the PHA offers a system of site-based waiting lists, this should be taken into consideration when designing the offer system.

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Notes

SITE-BASED WAITING LISTS

- The Admissions and Continued Occupancy Policy should define how offers are made on site-based waiting lists.

NON-SITE-BASED WAITING LISTS

- The following plans are examples of PHA offer systems.

Plan A (1 Offer Plan)

- This plan is NOT based on the distribution of vacancies in the PHA's developments.
- The applicant is offered a suitable unit. If the applicant refuses it, their name goes to the bottom of the waiting list.
- Only under this plan is an applicant given only one offer before their name goes to the bottom of the waiting list.

Plan B (2-3 Offer Plan)

- This plan is based on the distribution of vacancies in the PHA's developments.
- The PHA determines how many locations within its jurisdiction have available units of suitable size and type in the appropriate type or development.
- The PHA must offer an applicant at least two suitable units before putting the applicant's name on the bottom of the waiting list.
- The first offer must be rejected before the second offer is made.
- If there is only one suitable unit available, and the offer is rejected, the applicant maintains the same position on the waiting list until another suitable unit is offered.

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Notes

- The PHA may have to make three offers to some applicants, but only two offers to others, depending on the availability of units.
- If a suitable unit is available in:
  - *3 or more locations:* The applicant may be offered a suitable unit in the location with the highest number of vacancies.
    - If the offer is rejected, the applicant must be offered a suitable unit in the location with the second highest number of vacancies.
    - If that offer is rejected, the applicant must be offered a suitable unit in the location with the third highest number of vacancies.
    - If that offer is rejected, the applicant's name must be put at the bottom of the waiting list.
  - *2 locations:* The applicant must be offered a suitable unit in the location with the higher number of vacancies.
    - If the offer is rejected, the applicant must be offered a suitable unit at the other location.
    - If that offer is rejected, the applicant's name must be moved to the bottom of the waiting list.
  - *1 location:* The applicant must be offered a suitable unit in that location.
    - If the offer is rejected, the applicant must be offered the next suitable unit that becomes available, whether it is at the same location as the first offer or at another location.
    - If the applicant rejects the second offer, the applicant's name must be put at the bottom of the waiting list.

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Notes

Further Guidance

- Under any tenant selection plan, the PHA must maintain a record of the units offered, including location, date, circumstances of each offer, and each rejection or acceptance.
- The PHA must note the reason(s) for any rejection.
- Any applicant would *not* be considered to have been offered a unit if:
  - Unit is not of the proper size and type, and the applicant would be able to reside there only temporarily
  - Unit contains lead-based paint, and accepting the offer could result in subjecting the applicant's children under seven (7) years of age to lead-based paint poisoning
  - Applicant is unable to move at the time of the offer and presents clear evidence to the PHA's satisfaction, such as:
    - A physician's verification that the applicant has just undergone major surgery and requires a period to recuperate.
    - Court verification that the applicant is serving on a jury which has been sequestered.
  - Accepting the offer would result in undue hardship to the applicant not related to consideration of race, color, national origin, or language, such as making employment or day care facilities inaccessible, and the applicant presents clear evidence substantiating this to the PHA's satisfaction.
- A "location" (site) is not always the same as a development.
- A location may have more than one development.
- HUD defines a site as any common geographic area undivided by natural or man-made barriers (such as rivers, highways, railroads, or other major obstructions) that block or impede normal pedestrian traffic.

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Notes

- Individual dwelling units in a scattered site development may be grouped and identified as one location if they are within a block of each other.
- The "highest number of vacancies" means:
  - Vacancies in units of all sizes and types, not just the size and type the applicant needs.
  - The actual number of vacancies, not the number of vacancies as a percentage of all units in that location.
- The PHA may adopt a policy defining "bottom of the waiting list" to mean that the family will be denied any preferences for a specified period of time in order to keep the family from coming back to the top of the waiting list too quickly.
- In project-based management, some PHAs will decentralize tenant selection to give more control over who is admitted to a given property to the development manager
  - As with site-based waiting lists, with the development manager's added control over tenant selection comes more responsibility to assure that families are admitted in accordance with fair housing and other HUD regulations and with PHA policies and goals

INFORMAL HEARINGS

- Applicants are entitled to an informal hearing.
  - Hearings may be conducted in person or remotely, depending on PHA policy. See Notice PIH 2020-32 for the requirements regarding conducting remote informal hearings.
- The purpose of the informal hearing is to:
  - Resolve applicant disputes with the PHA without legal action, and
  - Correct PHA errors.
- Families must be notified of their right to an informal hearing in most circumstances in which the PHA makes a decision affecting their eligibility or assistance.

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Notes

- All informal hearings must be conducted by a non-involved person designated by the PHA who must be someone other than those who made or approved the decision, or their subordinates.
- PHAs have latitude in establishing reasonable timeframes for families to request an informal hearing as well as the timeframe for the PHA's final determination.
- Reasonable timeframes should:
  - Allow the family seven to ten calendar or working days to request an informal hearing, and
  - Allow the PHA 14 calendar days to issue a final decision following the informal hearing.
- Families must be informed of their rights to an informal hearing.
- Statements should be:
  - Carefully worded to avoid unnecessary questioning of every PHA decision, and
  - Clearly stated so that the family knows which decisions they have a right to appeal and which they do not.
- PHAs need to carefully select a qualified and impartial person to conduct the informal hearing.
- If the original decision is made by a high-ranking official within the PHA, the PHA may have difficulty finding an appropriate person to conduct the informal hearing.
- Small PHAs should consider using the staff of neighboring PHAs if there are no other available persons.
- The PHA may use the services of an outside competent individual.
- Applicants may present oral or written objections to the decision. Applicants may retain counsel or other representative, if desired, at his/her own expense.

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- After the informal hearing is completed, the PHA should promptly notify the applicant in writing of the final decision and state the reasons for its determination.
- All requests for an informal hearing, supporting documentation, and copy of the final decision must be retained in the family's file.

Informal Hearing Requirements

- A PHA may determine that:
  - The applicant is ineligible
  - The applicant does not meet the PHA's admission standards
  - The PHA does not have an appropriate size and type of unit in its inventory
- At this determination, the PHA must notify the applicant promptly and state the basis for the determination.
- If the applicant requests it, the PHA must provide an informal hearing within a reasonable period of time after the applicant has been notified.
- If the hearing is to be conducted remotely, the PHA must also determine whether any technological barriers exist and attempt to resolve those barriers prior to the remote hearing.[1]
- The grievance procedures for public housing tenants do not apply to PHA determinations affecting applicants.

1. Notice PIH 2020-32

Notes

RETENTION OF DOCUMENTS

- PHAs must maintain information on the race, ethnicity, sex, and age of the head of household of all families that submit an application for admission and of all tenants in occupancy.
- PHAs must keep in the tenant's file a copy of each family's application for admission to public housing.
- The preapplication should indicate the date and time it was received and the applicant's preference status.
- The PHA must document its determination that an applicant is eligible and meets the PHA's admission standards.
- The PHA must also document its determination that an applicant:
  - Is ineligible
  - Does not meet its admission standards
  - Will be dropped from the waiting list for any other reason.
- The PHA must maintain a record of the dwelling units offered to an applicant, including the location, date, and circumstances of each offer and each rejection or acceptance.
- If the applicant rejected the unit, the PHA must note the reason for the rejection.
- Any other occupancy information collected by the PHA must be retained for at least three (3) years or until audited by HUD, whichever occurs later. This would include data on current applicants and tenants, and applications from people who were never admitted.

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UNIT 6 Income

Section 1 Verifications

OVERVIEW

- The issue of verification cuts across all occupancy areas.
- PHAs need to establish detailed verification procedures within their admissions and continued occupancy policies (or separately) for management control purposes.
- If the PHA conducts family interviews, PHA should ensure that staff interviewers are trained to explain the following points during interviews or if necessary:
  - The types of information that the PHA will verify
  - The methods of verification, including computer matching, that the PHA will use
- PHAs share the responsibility for documentation and verification of income information with the families that apply for or receive program assistance.
  - To fulfill their responsibilities, families must:
    - Complete all necessary paperwork
    - Sign all required release forms
    - Be responsive to PHA requests
    - Provide requested information and documents in a timely manner
  - PHAs, for their part, must follow up with third-party sources, where applicable.
- Accurate and complete verifications are essential for high-quality program administration because they ensure that the income information provided by families, and used by PHAs to determine eligibility and rent, is correct.

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- PHAs must take measures to ensure that each regulatory and policy item that needs to be verified is in fact verified—and verified consistently—by all staff members.

REGULATORY VERIFICATION REQUIREMENT

- The regulations governing verification are located at 24 CFR 960.259(c) with additional guidance found in Notice PIH 2023-27. When the PHA does not use a streamlined or Safe Harbor income determination, the PHA either must obtain and document in family files third-party verification of the following factors or must document in the files why third-party verification was not available:
  - Reported family annual income
  - The value of net family assets when the net cash value exceeds the HUD-determined threshold (as adjusted annually
    - Except that the PHA must obtain third-party verification of all family assets every three years
  - Expenses related to deductions from annual income
  - Other factors that affect the determination of adjusted income or income-based rent
- In some cases, third-party verification is not required. Self-certification is an acceptable form of verification when:
  - A source of income is fully excluded;
  - Net family assets are equal to or less than the HUD-determined threshold and the PHA has adopted a policy to accept self-certification;
    - Except that the PHA must obtain third-party verification of all family assets every three years
  - The family declares that they do not have any present ownership in any real property;
  - A family states that they have nonrecurring income that will not be repeated in the coming year;
  - When a family reports zero income;
  - The PHA has adopted a policy to implement streamlined annual recertifications for fixed sources of income.

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Notes

USE OF OTHER PROGRAMS' DETERMINATION OF INCOME

- PHAs may, but are not required to, determine a family's annual income, including income from assets, prior to the application of any deductions, based on income determinations made within the previous 12-month period, using income determinations from means-tested federal public assistance programs.[1]
- PHAs are not required to accept or use determinations of income from other federal means-tested forms of assistance.
- If the PHA adopts a policy to accept this type of verification, the PHA must establish in policy:
  - When they will accept Safe Harbor income determinations
  - From which programs the PHA will accept Safe Harbor determinations
  - The course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs
- Means-tested federal public assistance programs include:
  - Temporary Assistance for Needy Families (TANF) (42 U.S.C. 601, et seq.);
  - Medicaid (42 U.S.C. 1396 et seq.);
  - Supplemental Nutrition Assistance Program (SNAP) (42 U.S.C. 2011 et seq.);
  - Earned Income Tax Credit (EITC) (26 U.S.C. 32);
  - Low-Income Housing Credit (LIHTC) program (26 U.S.C. 42);
  - Special Supplemental Nutrition Program for Woman, Infants, and Children (WIC) (42 U.S.C. 1786);
  - Supplemental Security Income (SSI) (42 U.S.C. 1381 et seq.);
  - Other programs administered by the HUD Secretary;

1. Notice PIH 2023-27

Notes

- Other means-tested forms of federal public assistance for which HUD has established a memorandum of understanding; and
- Other federal benefit determinations made in other forms of means-tested federal public assistance that the Secretary determines to have comparable reliability and announces through the Federal Register.

- If the PHA elects to use the annual income determination from one of the above-listed forms of means-tested federal public assistance, then they must obtain the income information by means of a third-party verification.
  - The third-party verification must state the family size, must be for the entire family, and must state the amount of the family's annual income.
  - The annual income need not be broken down by family member or income type.
  - Annual income includes income earned from assets, therefore when using Safe Harbor to verify a family's income, PHAs will neither further inquire about a family's net family assets, nor about the income earned from those assets, except with respect to whether or not the family owns assets that exceed the asset limitation in 24 CFR 5.618.
- The Safe Harbor documentation will be considered acceptable if any of the following dates fall into the 12-month period prior to the receipt of the documentation by the PHA:
  - Income determination effective date;
  - Program administrator's signature date;
  - Family's signature date;
  - Report effective date; or
  - Other report-specific dates that verify the income determination date.

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- The only information that PHAs are permitted to use to determine income under this method is the total income determination made by the federal means-tested program administrator. Other federal programs may provide additional information about income inclusions and exclusions in their award letters; however, these determinations and any other information must not be considered by the PHA. PHAs are not permitted to mix and match Safe Harbor income determinations and other income verifications.
- If the PHA is unable to obtain Safe Harbor documentation or if the family disputes the other program's income determination, the PHA must calculate the family's annual income using traditional methods as outlined in Notice PIH 2023-27.
- If the PHA uses a Safe Harbor determination to determine the family's income, the family is obligated to report changes in income that meet the PHA's reporting requirement and occur after the effective date of the transaction.
- The amounts of unreimbursed reasonable attendant care expenses and childcare expenses deducted from a family's annual income, except for when a family is approved for a childcare expense hardship exemption, must still be capped by the amount earned by any family member who is enabled to work as a result of the expense. PHAs are therefore required to obtain third-party verification of the applicable employment income and cap the respective expense deductions accordingly.
- The PHA is not required to use the EIV Income, IVT, or New Hires reports at annual reexam if a Safe Harbor income determination is used.

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Notes

- The PHA does not need to take any additional steps to verify or calculate annual income, including comparing the income to EIV data or verifying the amount of the family's assets. The PHA must verify any applicable deductions to calculate the family's adjusted income.

STREAMLINING VERIFICATION OF FIXED INCOME

- PHAs may adopt policies for streamlining the annual reexamination verification process for fixed sources of income. Further, upon request of the family, the PHA must perform third-party verification of all income sources.[1]
- While third-party documentation must be obtained during the intake process and at least once every three years thereafter, in the intervening years, the PHA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or other inflationary adjustment factor.
- Streamlining policies are optional. PHAs may choose to obtain third-party verification for every annual reexamination.
- The PHA 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.

1. 24 CFR 960.257(c); Notice PIH 2023-27

Notes

- Two streamlining options are available, depending upon the percentage of the family's income that is received from fixed sources.
  - When 90 percent or more of a family's unadjusted income is from fixed sources, the PHA may apply the inflationary adjustment factor to the family's fixed-income sources, provided that the family certifies both that 90 percent or more of their unadjusted income is fixed and that their sources of fixed income have not changed from the previous year. Sources of non-fixed income are not required to be adjusted and must not be adjusted by a COLA, but PHAs may choose to adjust sources of non-fixed income based on third-party verification. PHAs have the discretion to either adjust the non-fixed income or carry over the calculation of non-fixed income from the first year to years two and three.
    - **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 PHA must third-party verify all income at admission. In years two and three, the PHA 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, PHAs 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 PHA must third-party verify all income at admission. In years two and three, the PHA may apply any adjustment to the pension and must verify the regular contribution from her father.
- The PHA must use the COLA that applies to each specific source of fixed income.

Notes

- 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 PHA must obtain third-party verification of the income amounts in order to calculate the change in income for the source.

HIERARCHY OF VERIFICATION METHODS

- HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information, in addition to specifying the circumstances in which each method will be used. In general, HUD requires the PHA to use the most reliable form of verification that is available and to document the reasons when the PHA uses a lesser form of verification.
- HUD developed a hierarchy that describes verification documentation from most acceptable to least acceptable. The PHA must demonstrate efforts to obtain third-party verification prior to accepting self-certification, except instances when self-certification is explicitly allowed.
- HUD has established a hierarchy of six verification levels:
  - Highest: Level 6: Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system
  - Highest: Level 5: Up-front Income Verification (UIV) using a non-EIV system
  - High: Level 4:
    - Written third-party verification from the source, also known as “family-provided verification,” or
    - EIV plus self-certification
  - Medium: Level 3: Written third-party verification form
  - Medium: Level 2: Oral third-party verification
  - Low: Level 1: Self-certification (not third-party verification)

Notes

LEVEL 5 AND 6 VERIFICATION: UP-FRONT INCOME VERIFICATION (UIV)

- UIV is the verification of income through an independent source that systematically and uniformly maintains income information in computerized form for a large number of individuals.
- There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until the PHA has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of the PHA.
- HUD's Enterprise Income Verification (EIV) System is a type of UIV system. The EIV is a web-based application which provides PHAs with employment, wage, unemployment, and Social Security benefit information for participants in the Public Housing and Housing Choice Voucher programs.
  - Information in EIV is derived from computer matching programs with the Social Security Administration (SSA) and the Department of Health and Human Services.
- The EIV Income Report is mandatory at annual and streamlined reexaminations of family income and composition.[1]
- The PHA may, but is not required, to use EIV as a third-party source during interim reexaminations.
- The EIV Income Report is not available for applicant families or new members added to a currently assisted household.

1. 24 CFR 5.233(a)(2)(i)

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Notes

- PHAs are required to obtain an EIV Income Report for each family any time the PHA conducts an annual reexamination. However, PHAs are not required to use the EIV Income Report:
  - At annual reexamination if the PHA used Safe Harbor verification from another means-test federal assistance program to determine the family's income; or
  - During any interim reexaminations.
- When required to use the EIV Income Report, in order for the report to be considered current, the PHA must pull the report within 120 days of the effective date of the annual reexamination.
- The EIV Income Report may be used to verify and calculate income at annual reexamination if the family self-certifies that the amount is accurate and representative of current income. The family must be provided with the information in EIV.
- While EIV is mandatory, UIV using other sources is optional.
  - Current UIV resources include the following:
  - State government databases/SWICA
  - State Temporary Assistance for Needy Families (TANF) systems
  - Credit Bureau Association (CBA) credit reports
  - Internal Revenue Service (IRS) tax transcript (request with IRS form 4506-T)
  - Private sector databases (e.g., The Work Number)

LEVEL 4 VERIFICATION

- HUD identifies two types of Level 4 verification: written-third party verification from the source and EIV + self-certification.

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Notes

EIV + Self Certification

- EIV may be used as written third-party verification and may be used to calculate income if the family agrees with the information in EIV and self-certifies that the amount is accurate and representative of current income. This practice is known as EIV + self-certification.
- When calculating income using this method, the PHA may use its discretion to determine which method of calculation is reasonable: the last four quarters combined or an average of any number of quarters.
- The family must be provided with the information from EIV.

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 PHA.
  - Includes documents provided by the family.
  - For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation.
  - The PHA may use the verification obtained during an interim reexamination for an annual reexamination if there have been no other changes to annual income since the interim reexamination.

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Notes

- 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 also considered acceptable as written third-party verification.
- The PHA 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 PHA should use a traditional third-party verification form or the best available information.
- When the family disputes EIV-reported employment income, the PHA uses written third-party verification.
- The PHA may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated or illegible.
  - The PHA must explain this to the family and request additional documentation.

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Notes

LEVEL 3: 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 now rank higher than third-party forms.
- PHAs may mail, fax, or email third-party written verification form requests to third-party sources.
- The PHA may use this method when higher forms are unavailable or are rejected by the PHA or when the family is unable to provide acceptable verification.
- The PHA may skip this level of verification and may instead substitute oral third-party verification before moving to self-certification.

LEVEL 2: THIRD-PARTY ORAL VERIFICATION

- For third-party oral verification, PHAs contact sources, identified by UIV techniques or by the family, by telephone or in person.
- Third-party oral verification may be used when requests for the written third-party verification form have not been returned within a reasonable time (e.g., 10 business days).
  - PHAs must document in the file the date and time of the telephone call or visit, the name of the person contacted, and the telephone number, as well as the information confirmed.
  - The PHA may skip this level of verification if they attempted written third-party verification via a form and the source did not respond and move directly to self-certification.

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Notes

LEVEL 1: SELF-CERTIFICATION

- Non-third-party verification consists of a signed statement of reported income and/or expenses. This verification method should be used as a last resort when the PHA has not been successful in obtaining information via all other required verification techniques.
- When the PHA 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 are equal to or less than the HUD-determined threshold (adjusted annually for inflation) and the PHA has adopted a policy to accept self-certification
    - Except that the PHA must obtain third-party verification of all family assets every three years
  - The family declares that they do not have any present ownership in any real property
  - A family states that they have non-recurring income that will not be repeated in the coming year; and/or
  - The PHA has adopted a policy to implement streamlined annual recertifications for fixed sources of income.

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Notes

VERIFYING INCOME EXCLUSIONS

- For fully excluded income, the PHA is **not** required to:[1]
  - Follow the verification hierarchy
  - Document why third-party verification is not available
  - Report the income on the Form HUD-50058
- Fully excluded income is defined as income that is entirely excluded from the annual income determination, such as food stamps.
- PHAs may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional documentation. However, if there is any doubt that a source of income qualifies for full exclusion, PHAs have the option of requiring additional verification.
- For partially excluded income, the PHA is required to:
  - Follow the verification hierarchy and all applicable regulations
  - Report the income on the Form HUD-50058
- Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income, such as the income of an adult full-time student.

1. Notice PIH 2013-04

Notes

Notes

Section 2 Annual Income

FORM HUD-50058

- The purpose of the Form HUD-50058 is to:
  - Collect and retrieve detailed information about the family
  - Make computer matching with the Social Security Administration and Health and Human Services possible
  - Enable HUD to project program costs
  - Provide information about HUD programs to HUD and Congress as well as other interested parties
  - Enable HUD to monitor PHA performance
- The updated Form HUD-50058: Family Report was released in October 2023 and is dated 01/2024. The form was updated to fully reflect HOTMA requirements and replaces the previous version dated 6/2020.
  - Known as the “2024 version” of the 50058

INFLATIONARY ADJUSTMENTS

- HUD publishes certain inflation-adjusted items online at the HUD User website and the updated passbook rate each year no later than September 1.
- The revised amounts are effective on January 1 of the following year.
- The items that are impacted by inflationary adjustments are:
  - Eligibility restriction on net family assets
  - Threshold above which imputed returns must be calculated on net family assets
  - Threshold above which the total value of non-necessary personal property is included in net family assets
  - The amount of net assets which the PHA may accept self-certification by the family
  - Elderly/disabled deduction

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Notes

- Dependent deduction
- Income exclusions for earned income of dependent full-time students/adoption assistance payments

HOTMA Provisions	2027 Amount
Asset limitation	$109,979
Asset threshold	$54,898
Dependent deduction	$525
Elderly/disabled deduction	$575
Passbook rate	0.38%

DEFINITION

- *Annual income* includes, with respect to the family:[1]
  - 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 an amount that is determined by HUD, 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.

1. 24 CFR 5.609(a)

Notes

- 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.
- 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.[1]
  - For **initial occupancy/assistance** 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-month period, 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.

1. 24 CFR 5.609(c)

Notes

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 PHA's software and on the Form HUD-50058.

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

- Employment income earned by children under the age of 18 is not included in annual income.[1]
- 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 considered when determining net family assets.

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

Notes

Full-Time Students

- A family member is considered a full time student if they are attending school or vocational training on a full-time basis.[1]
- 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.
- 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.[2]
  - The amount of the dependent deduction will be adjusted annually for inflation.
  - Currently, the dependent deduction is $525. Therefore, the PHA will include up to $525 of earned income of a dependent full-time student and will exclude any amounts in excess of that amount.
- All 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 full-time students.
- The assets and asset income of full-time students is considered when determining net family assets.

1. 24 CFR 5.603
2. 24 CFR 5.609(a)(1); 24 CFR 5.609(b)(14)

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Notes

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.
- The regulations also do not define "temporarily" or "permanently" absent for individual family members or specify a timeframe associated with a temporary versus a permanent absence.
  - The PHA should define these terms in PHA policy.
  - For example, the PHA may consider a family member who is working in another state on assignment to be temporarily absent.
  - Once an individual is considered permanently absent, the individual is removed from the family composition and their income is no longer included.
- 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.
- The PHA should establish a policy regarding these family members since the regulations do not address this issue.

Live-In Aides

- The income of live-in aides, regardless of whether it is earned or unearned income, is fully excluded from annual income.[1]
- 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:[2]

1. 24 CFR 5.609(b)(8)
2. 24 CFR 5.403

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Notes

- 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.
- Live-in aides and their children are coded as "L" on the 50058.

Foster Children and Foster Adults

- 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.[1]
- 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.
- The income of foster children and foster adults, regardless of whether it is earned or unearned income, is fully excluded from annual income.[2]

1. 24 CFR 5.603(b)
2. 24 CFR 5.609(b)(8)

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Notes

- The PHA excludes payments received for the care of foster children or foster adults.[1]
- 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.

EARNED INCOME

- *Earned income* is defined as income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment.[2]
- 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.

Employment Income

- 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.[3]
- The PHA uses the full (gross) amount before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation.[4]

1. 24 CFR 5.609(b)(4)
2. 24 CFR 5.100
3. 24 CFR 5.609(a)
4. PH Occ GB

Notes

- When a family member's wages or benefits are garnished, levied, or withheld to pay restitution, child support, tax debt, student loan debt, or other applicable debts, must use the gross amount of the income, prior to the reduction, to determine a family's annual income.
- The methodology used for calculating earned income differs depending on whether income is being calculated at initial occupancy, interim reexamination, or as part of an annual reexamination.

Seasonal Employment

- 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.[1]
- Earnings of a seasonal workers or day laborers are included in annual income, even if the source, date, or amount of the income varies.
  - *Seasonal worker* is defined as an individual who is hired into a short-term position (e.g., for which the customary employment period for the position is six months or fewer); and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry.
    - 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.

1. 24 CFR 5.609 (b)(24); 24 CFR 5.603 (b)

Notes

Military Pay

- Count all regular pay, special pay, and allowances of a member of the armed forces (whether temporarily or not).
- Exclude the special incentive pay for exposure to hostile fire.

Self-Employment

- Annual income includes net income from the operation of a business or through self-employment.[1]
  - 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.
- 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.[2]
- 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.[3]

1. 24 CFR 5.609(b)(28)
2. 24 CFR 5.609(b)(28)(ii)
3. PH Occ GB, Income Determination, p. 14

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Notes

- 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.[1]
  - 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.[2]
  - 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 PHA when calculating income. For individuals working for rideshare companies, the PHA may request a summary of payments.

INCOME OF STUDENTS

Educational Savings Accounts

- 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.[3]

1. 24 CFR 5.609(b)(24)
2. 24 CFR 5.603(b)
3. 24 CFR 5.609(b)(10)

Notes

Student Loans

- 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).[1]

Student Financial Assistance

- The regulations distinguish between two categories of student financial assistance paid to both full-time and part-time students.[2]
- Ti**tle 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
  - **Note:** Income received under the GI Bill is not Title IV financial aid

1. 24 CFR 5.609(b)(20)
2. 24 CFR 5.609(b)(9

Notes

- **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.

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Notes

- The student financial assistance may be paid directly to the student or to the educational institution on the student's behalf. However, any student financial assistance paid to the student must be verified by the PHA.
- The financial assistance must be a grant or scholarship received from:
  - The federal government;
  - A state, tribal, or local government;
  - A private foundation registered as a nonprofit;
  - A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
  - An institution of higher education.
- Student financial assistance, does not include:
  - Financial support provided to the student in the form of a fee for services performed;
  - 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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Notes

Example 1: HEA Assistance Only
• If a student only receives financial assistance under Title IV of the HEA and does not receive any other student financial assistance, exclude the full amount of the assistance received under Title IV of the HEA.
• Student received $10,000 annually from a Pell Grant (which is assistance under Title IV of the HEA). • The PHA excludes all $10,000 since this is assistance under Title IV of the HEA.

Example 2: Other Assistance Only
• If the student does not receive any assistance under Title IV of the HEA but does receive financial assistance from another source: - Calculate actual covered costs. - Subtract the total amount of the student's financial assistance from the student's actual covered costs. - Include any amount of financial assistance in excess of the student's actual covered costs.
• Actual covered costs: $20,000 • Title IV HEA assistance: $0 • Other student financial assistance: $25,000 • $25,000 in financial assistance - $20,000 in actual covered costs • Include in income: $5,000

Notes

Example 3: Both
• 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: $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
• 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

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Notes

PERIODIC PAYMENTS AND NONRECURRING INCOME

- *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.[1]
  - Unemployment benefits are not considered nonrecurring and are included in annual income since they are a periodic payment

Lump-Sum Payments Counted as Income

- Generally, lump sums received by the family such as lottery or contest winnings are not considered income since they are nonrecurring income.[2]
- 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.
- However, deferred periodic amounts (whether received as a lump sum or prospective monthly payments) from the following sources are excluded:[3]
  - Social Security and Supplemental Security Income (SSI)
  - Department of Veterans Affairs (VA) disability benefits

1. Notice PIH 2019-09
2. 24 CFR 5.609(a)
3. 24 CFR 5.609(b)(16)

Notes

Retirement Accounts

- 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.[1]
- However, any distribution of periodic payments from such accounts is included in annual income at the time they are received by the family.

Social Security

- Include the gross amount of Social Security prior to the Medicare deduction.[2]
  - The monthly Medicare premium may be deducted as a health and medical care expense for qualifying families.
- If a Social Security recipient's benefits are reduced to make up for prior overpayments, the recipient's income should include the amount the Social Security agency will provide, not the amount that would have been provided if no error were made.
  - Applies to other similar benefits as well as SS.
- If a recipient's Social Security income is reduced because of an IRS garnishment, or other similar garnishment, use the gross amount to calculate income.

1. 24 CFR 5.609(b)(26)
2. PH Occ GB, Income Determination, pp. 38-39

Notes

Alimony and Child Support

- Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive.[1]
  - 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.
- Include periodic and determinable amounts such as alimony and child support since they are not specifically excluded under the regulation.[2]
- HUD strongly encourages PHAs to determine in their policies what documentation is required to show what the family receives.[3]
  - For example, if the household has filed with the local support enforcement agency, printouts from the agency may indicate the frequency and amount of payments actually received.
- When no documentation of child support, divorce, or separation is available, either because there was no marriage or for another reason, the PHA may require the family to sign a certification stating the amount of child support received.

Nonrecurring Income

- Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period is excluded from annual income as nonrecurring.[4]
  - 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.

1. Notice PIH 2023-27
2. 24 CFR 5.609(a)
3. PH Occ GB, Income Determination, p. 16
4. Notice PIH 2023-27

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Notes

- PHAs may accept a self-certification from the family stating that the income will not be repeated in the coming year.
- Any workers' compensation is always excluded from annual income, regardless of the frequency or length of the payments.
- Income excluded as nonrecurring includes:[1]
  - Nonrecurring payments made to the family or to a third-party on behalf of the family to assist with utilities;
  - Payments for eviction prevention;
  - Security deposits to secure housing;
  - Payments for participation in research studies (depending on the duration); and
  - General one-time payments received by or on behalf of the family.
- Nonrecurring income includes:[2]
  - 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.

1. Notice PIH 2023-27
2. 24 CFR 5.609(b)(24)

Notes

- Nonmonetary 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, PHAs are prohibited from assigning monetary value to nonmonetary in-kind donations received by the family.
  - Nonrecurring, nonmonetary in-kind donations from friends and family may be excluded as nonrecurring income.
- Provided they do not meet the definition of nonrecurring, the PHA 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:[1]
  - Temporary Assistance for 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.

1. 24 CFR 5.609(a)

Notes

- 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 PHAs 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.

Imputed Welfare Income

- Families who receive welfare benefits from a welfare agency may be required under a federal, state, or local law to participate in an economic self-sufficiency program as a condition of assistance.[1]
- The welfare agency may reduce welfare benefit payments to sanction a family for noncompliance with welfare economic self-sufficiency requirements.
- The PHA may not reduce the family rent contribution due to sanctions imposed by the welfare agency for noncompliance with welfare self-sufficiency or work activities requirements, or because of fraud relating to the welfare program.
- The family's income must include the amount of welfare benefits that would have been paid to the family if sanctions had not been imposed.

1. 24 CFR 5.615

Notes

- A "specified welfare benefit reduction" is:
  - A reduction in welfare benefits due to:
    - Fraud in connection with the welfare program
    - Sanction for noncompliance with welfare agency requirement to participate in an economic self-sufficiency program
  - Not applicable if:
    - The welfare reduction is a result of the expiration of a lifetime limit, or other time limit, on receiving benefits
    - The family has complied with requirements but cannot find a job
    - The sanction is due to family noncompliance with other welfare agency requirements
- At the request of the PHA, the welfare agency will inform the PHA of:[1]
  - The amount and term of the specified welfare benefit reduction for the family
  - The reason for the reduction
  - Subsequent changes in the term or amount of the reduction
- The PHA will use the information provided by the welfare agency to determine the amount of imputed welfare income for the family.

1. 24 CFR 5.615(c)(2)

Notes

- Imputed welfare income is the amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is included in the family's annual income for purposes of determining rent.[1]
  - Based on information provided by the welfare agency
  - Used during the term of welfare benefits reduction.
  - Offset by the amount of additional income the family receives that starts after the sanction is imposed.
  - When such additional income is greater than or equal to the imputed welfare income, imputed welfare income is reduced to zero.
- **NOTE:** The PHA may not include imputed welfare income in annual income if the family was not assisted at the time of the sanction.
- If the family claims that the imputed welfare income has not been correctly calculated, but the PHA denies the family's request to modify the imputed welfare income amount, the PHA must give the family written notice of such denial, explaining the basis for the PHA-determined amount of imputed welfare income.[2]
- The notice must state that if the family disagrees with the PHA determination, the tenant may request a grievance hearing to review the PHA determination.

Health and Medical Care Reimbursements

- 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.[3]

1. 24 CFR 5.615
2. 24 CFR 5.615(d)
3. 24 CFR 5.609(b)(6)

Notes

AID AND ATTENDANCE FOR VETERANS

- Exclude payments related to aid and attendance to veterans in need to regular aid and attendance (38 USC 1521).[1]
  - 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. PHAs 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.
- 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.[2]

HOME-BASED CARE PAYMENTS FOR A FAMILY MEMBER WITH DISABILITIES

- 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.[3]
  - 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.

1. 24 CFR 5.609(b)(17)
2. Notice PIH 2023-27
3. 24 CFR 5.609(b)(19)

Notes

- 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.
  - 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.

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Notes

CIVIL ACTION SETTLEMENTS

- 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.[1]

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.

PLAN FOR ACHIEVING SELF-SUFFICIENCY (PASS)

- 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).[2]

PUBLICLY ASSISTED PROGRAMS

- 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.[3]
  - Clothing
  - Special equipment
  - Transportation
  - Childcare, etc.

1. 24 CFR 5.609(b)(7)
2. 24 CFR 5.609(b)(12)(i)
3. 24 CFR 5.609(b)(12)(ii)

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Notes

RESIDENT SERVICE STIPENDS

- *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.[1]
- 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 PHA must include the entire amount in annual income.
  - The individual cannot receive more than one such stipend at a time.

TRAINING PROGRAMS

- 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.[2]
  - *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)).

1. 24 CFR 5.609(b)(12)(iii)
2. 24 CFR 5.609(b)(12)(iv)

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Notes

HOLOCAUST REPARATION PAYMENTS

- 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.[1]

REFUNDS AND REBATES FOR PROPERTY TAXES

- 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.[2]

ADOPTION ASSISTANCE PAYMENTS

- Adoption assistance payments for a child in excess of the amount of the dependent deduction, specified in 24 CFR 5.611, are excluded.[3]
  - Note, the dependent deduction will be adjusted annually for inflation.

LOAN PROCEEDS

- Exclude the net amount disbursed by a lender to or on behalf of a borrower under the terms of the loan agreement.[4]
- 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.

1. 24 CFR 5.609(b)(13)
2. 24 CFR 5.609(b)(18)
3. 24 CFR 5.609(b)(15)
4. 24 CFR 5.609(b)(20)

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Notes

MISMANAGEMENT OF ASSETS CLAIMS

- 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.[1]

HOUSING GAP PAYMENTS

- 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).[2]
- 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.

CIVIL RIGHTS SETTLEMENTS AND JUDGMENTS

- Exclude income from civil rights settlements or judgments, including settlements or judgments for back pay regardless of how the settlement or judgment is structures (i.e., as a lump sum or structured payment).[3]
  - 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.

1. 24 CFR 5.609(b)(21)
2. 24 CFR 5.609(b)(23)
3. 24 CFR 5.609(b)(25)

Notes

- 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

- Exclude income earned on amounts placed in a family's Family Self-Sufficiency (FSS) account.[1]
- 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 CFR 5.609(b)(24)(vii) as a lump-sum addition to net family assets.

FEDERALLY MANDATED INCOME EXCLUSIONS[2]

- 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.

1. 24 CFR 5.609(b)(27)
2. FR Notice 5/20/14; 24 CFR 5.609(b)(22)

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Notes

- 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.
  - 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, earnings, 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)

Notes

- 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 (Pub. L. 95-433 section 2).
- 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))
- 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

Notes

- 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).
- 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)).
- Childcare 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 Childcare and Development Block Grant Act of 1990.

Notes

- Earned Income Tax Credit (EITC) refund payments
  - This exclusion also applies to assets.
- 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
  - 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)
    - U.S. 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.

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Notes

- 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.
  - 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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Notes

Section 3 Assets

OVERVIEW

- 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.

TYPES OF ASSETS

- All assets are categorized as either real property or personal property.[1]

Real Property

- Real property includes things like land or a home.[2]
- Equity in real property (land owned or bequeathed) or other capital investments is considered an asset.
- The PHA 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.

1. Notice PIH 2023-27
2. Notice PIH 2023-27; 24 CFR 5.603(b)(3)(iv)

Notes

- 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.

Notes

- 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 PHAs to gather enough facts to qualify whether an asset is necessary or non-necessary personal property.
- 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 (adjusted annually for 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 (adjusted annually for inflation), is considered part of net family assets.

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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.

EXAMPLE: BANK ACCOUNT
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 cash values of 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 50058: $1

Notes

Bank Accounts

- HUD considers bank accounts non-necessary items of personal property.[1]
  - When the combined value of all non-necessary personal property is greater than the HUD-determined threshold, as adjusted annually for 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 annually for 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 Form HUD-50058 for every asset, regardless of the total value of net family assets.
- When verification is required, the PHA must obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

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 the HUD-determined threshold, as adjusted annually for inflation, financial investments 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 annually for inflation, financial investments are excluded from net family assets.

1. Notice PIH 2023-27

Notes

- Actual income from financial investments is always included in a family's annual income. Anticipated income must be recorded on the Form HUD-50058 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.
- When the combined value of all non-necessary personal property does not exceed the HUD-determined threshold, as adjusted annually for inflation, all non-necessary personal property is excluded from net family assets. However, any real property is still included in net family assets regardless of its value.
  - For example, a family could have non-necessary personal property with a combined value that does not exceed the HUD-determined threshold, as adjusted annually for inflation but also own real property such as a parcel of land. Even though the non-necessary personal property would be excluded from net family assets, the real property would be included in net family assets regardless of its value.

Trusts

- A *trust* is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).[1]
- 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.

1. HUD Handbook 4350.3

Notes

- 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.
- 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 or 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.

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Notes

- 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;
- However, 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.

Jointly Owned Assets

- Jointly owned assets are assets owned by the family and one or more individuals outside of the assisted family.[1]
- The PHA 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 will 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.

1. Notice PIH 2023-27

Notes

- 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.

Lump Sums

- 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 considered in net family assets when these one-time payments are in an asset that is not excluded from the definition of net family assets.[1]
  - 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.

1. 24 CFR 5.609(b)(24)

Notes

Federal Tax Refunds or Refundable Tax Credits

- 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.[1]
- If the federal tax refund was received during the 12 months preceding the effective date of the family's annual or interim reexam, then the amount of the refund that was received by the family is subtracted from the total value of net family assets.[2]
  - When the subtraction results in a negative number, then the balance of the asset is considered $0.
- PHAs are not required to verify the amount of the family's federal tax refund or refundable tax credits if the family's net assets are equal to or less than the HUD-determined threshold, adjusted annually for inflation, even in years when full verification of assets is required or if the PHA does not accept self-certification of assets.
- PHAs must verify the amount of the family's federal tax refund or refundable tax credits if the family's net assets are greater than the HUD-determined threshold, adjusted annually for inflation.

1. 24 CFR 5.603(b)(3)(xi)
2. Notice PIH 2023-27

Notes

- 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 received a $4,500 federal tax refund on 3/1. He deposited the entire refund into his checking account. This is his only asset. The checking account is his only asset. At his 8/1 annual reexam, he self-certifies that his account balance is $10,000. He reports his actual income from the checking account is $100.
• The PHA must subtract the $4,500 tax refund from the family's net assets of $10,000. • 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 PHA excludes the entire checking account from his net family assets. • The PHA includes $100 as anticipated income on the 50058.

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.

Notes

Retirement Accounts

- 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.[1]
- Income received from any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals is excluded from annual income.[2]
  - 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.

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, 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.

1. 24 CFR 5.603(b)(3)(iii)
2. 24 CFR 5.609(b)(26)

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Notes

- 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 PIH 2019-09.

CALCULATING INCOME FROM ASSETS

Net Family Assets

- 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.[1]
- 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 minus reasonable costs to convert an asset to cash equals net cash value.

1. 24 CFR 5.603(b)(1)

Notes

- To determine net family assets, the PHA must calculate the net cash value of each asset. The *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 in Section 6 of the 50058.
- Some assets generate no income, such as:
  - Non-interest bearing checking accounts
  - 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
- 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.

Notes

Net Family Assets Equal to or Less Than $54,898

- **When net family assets are equal to or less than the HUD-determined threshold**, adjusted annually for inflation, the PHA may accept the family's self-certification that their assets do not exceed the HUD-determined threshold (adjusted annually for inflation) without taking any additional steps to verify the accuracy of the declaration.
  - However, the PHA 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 PHA may still verify all family assets regardless of the amount. PHA policy must address whether families may self-certify assets.
  - If the PHA allows for self-certification, the declaration must include the amount of income the family expects to receive from assets. The PHA must include the amount on the family's declaration in the family's income on the form HUD-50058. The PHA does not calculate income from assets in this case because the PHA must use the amount on the family's self-certification.
  - When net family assets are equal to or less than the HUD-determined threshold, as adjusted annually for inflation, PHAs may not calculate and may not include imputed returns as family income.
- However, the PHA is required to obtain third-party verification of all assets, regardless of the amount, at least once every three years.

Notes

- Regardless of whether the PHA uses self-certification or third-party verification, actual income from assets must be included on the 50058. When net family assets are equal to or less than the HUD-determined threshold, as adjusted annually for inflation, the PHA may not calculate imputed returns as family income.

EXAMPLE: SELF-CERTIFICATION	
Jenny Jones has a savings account. This is her only asset. On her declaration form, she states the following:	
Current Value	$1,400
Actual income from the account	$1
The PHA may accept self-certification of the value of the account provided PHA policy allows for self-certification. The savings account is not an asset since her non-necessary personal property does not exceed $54,898. The PHA does not calculate imputed income from her savings account since her assets do not exceed $54,898. The PHA includes $1 as actual income from her savings account on the 50058.	

Net Family Assets Exceeding $54,898

- **When net family assets have a total value over the HUD-determined threshold,** as adjusted annually for inflation, the PHA may not rely on the family's self-certification. Instead, the PHA must obtain third-party verification of all assets.
  - If Safe Harbor verification is obtained from a means-tested Federal assistance program, however, this determination counts as “fully verifying” the family's assets, and no additional verification may be obtained.

Notes

- The PHA must obtain and must calculate income using the following method:
  - If actual returns (income) can be calculated, the PHA 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. Effective January 1, 2027, the HUD-determined passbook rate is 0.38%.
  - Imputed asset income is calculated by multiplying the net cash value of the asset, after deducting reasonable costs that would be incurred in disposing of the asset, by the HUD-published passbook rate.
  - If the PHA is able to calculate actual returns from some assets and unable to calculate actual returns from others, the PHA 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 PHA then adds all asset income together in order to determine final asset 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 non-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.

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Notes

- The passbook rate is never applied when net family assets are equal to or less than the HUD-determined threshold (adjusted annually for inflation). The passbook rate is only applied when net family assets exceed the HUD-determined threshold (adjusted annually for inflation) and only to those assets where the rate of return is unknown.

EXAMPLE: ASSETS OVER $54,898
Glenn and Jeri Jorgensen have the following assets: • Vacant land with a cash value of $25,000. • A savings account worth $55,000 that pays 1% interest.
• The family's total net assets are $80,000. • The actual income of the savings account is $55,000 x 1% = $550. • The PHA is unable to calculate the actual income earned for the property, so imputed asset income is calculated as $25,000 x 0.38% = $195. • Final asset income is $645.

Notes

ASSETS DISPOSED OF FOR LESS THAN MARKET VALUE

- In determining net family assets, PHAs 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 reexamination, as applicable, in excess of the consideration received therefor.[1]
  - 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 50058 is the difference between the actual cash value of the asset and the amount received.
- A disposition in trust when the family creates a trust for the benefit of someone outside of the assisted family is considered an asset disposed of for less than fair market value.[2]
- If the family establishes a nonrevocable trust for the benefit of someone in the assisted family, this is not considered disposed of for less than fair market value.
- An asset moved to a retirement account held by a member of the family is not considered an asset disposed of for less than fair market value.

1. 24 CFR 5.603(b)(2); PH Occ GB, Income Determination, pp. 26-27
2. Notice PIH 2023-27

Notes

Notes

Section 4 Adjusted Income

DEFINITION

- Adjusted income is calculated using Section 8 of the form HUD-50058.
- Adjusted income is annual income after making mandatory deductions for
  - Dependents
  - Elderly or disabled families
  - Childcare expenses
  - Health and medical care expenses
  - Disability assistance expenses
  - The PHA may also make permissive deductions for additional categories as established in PHA policy.

DEPENDENT ALLOWANCE

- Effective January 1, 2027, the dependent allowance is $525 for each family member who is:[1]
  - 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. PHAs must implement the adjusted deduction for all reexams effective January 1 or later of that year.
- The head, spouse, cohead, foster child, or foster adult are never dependents.
- A live-in aide is never a dependent.

1. 24 CFR 5.603(b) and 5.611(a)(1)

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Notes

ELDERLY OR DISABLED FAMILY DEDUCTION

- Effective January 1, 2027, the elderly disabled allowance is $525.[1]
- 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. PHAs must implement the adjusted deduction for all reexams effective January 1 or later of that year.
- An *elderly family* is a family in which the head, spouse, cohead, or sole member is 62 years of age or older.[2]
- A *disabled family* is a family in which the head, spouse, cohead, or sole member is a person with disabilities.[3]
  - A *person with disabilities* is a person who has a disability as defined in 42 U.S.C. 423; has a developmental disability as defined in 42 U.S.C. 6001; or 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.
- Note that a family may include an elderly or disabled member and still not qualify as an elderly or disabled family.[4]
  - For example, Ted and Alexis Cooper, both age 35, have a son, age 14, who is disabled. Because the son is not the head of household or spouse, the family does not qualify as a disabled family.

1. 24 CFR 5.611(a)(2)
2. 24 CFR 5.403
3. 24 CFR 5.403
4. 24 CFR 5.403

Notes

- Because this is a "family" deduction, each family is entitled to only one deduction, even if it qualifies both as an elderly family and a disabled family.[1]

CHILDCARE EXPENSES

- Reasonable, unreimbursed childcare 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:[2]
  - 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.
- PHAs determine whether childcare costs are reasonable and clearly identify what costs are reasonable in their policies.
  - Reasonable means reasonable for the care being provided.
  - Reasonable costs for in-home care may be different from reasonable day-care center costs.
- Families may choose the type of care to be provided.
  - PHAs do not have the discretion to limit deductions to certain types of care, i.e., in-home care instead of at a childcare center.
  - A PHA may not disallow a deduction for childcare expenses because there is an unemployed adult family member who may be available to provide the care.
  - A PHA may not decide the type of childcare available for a participant's children.
  - When inquiring about childcare expenses, PHAs are encouraged to clarify that the person and/or childcare facility does not need to be licensed to provide care and may also include relatives outside of the home; however, all expenses should be verifiable by third-party request.

1. VG, p. 23
2. 24 CFR 5.603(b) and 5.611(a)(4)

Notes

- Childcare expenses deducted to permit employment may not exceed the amount of employment income enabled by the childcare included in annual income.
  - When more than one family member works, the PHA must determine which family member is being enabled to work because childcare is provided.
  - A general rule is to assume that the childcare expenses enable the lowest paid individual to work, unless this is obviously not the case.

Exemption to Continue the Childcare Deduction

- A family whose eligibility for the childcare expense deduction is ending may request a financial hardship exemption to continue receiving the deduction.[1]
- The PHA must recalculate the family's adjusted income and continue the childcare deduction if the family demonstrates to the PHA's satisfaction that the:
  - Family is unable to pay their rent because of the loss of the childcare expense deduction; and
  - Childcare 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 PHA may, at its discretion, extend the hardship exemptions for additional 90-day periods based on family circumstances.
- The PHA must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions.
  - The notice must inform the family of when the hardship exemption will begin and expire.

1. 24 CFR 5.611(d)

Notes

- The PHA may terminate the hardship exemption if they determine that the family no longer needs it.
  - The PHA must establish a policy on what constitutes a hardship.

EXAMPLE: CHILDCARE EXPENSES
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 childcare 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 childcare expenses while not receiving earned income has made the family unable to pay their rent portion.
The PHA determined that Ms. Branch met the hardship exemption criteria and is unable to pay rent. The PHA will allow Ms. Branch to continue to receive the childcare expense deduction for 60 days as a hardship. Ms. Branch will qualify for the childcare expense deduction again when she starts college

DISABILITY ASSISTANCE EXPENSES

- Families may deduct reasonable anticipated expenses for attendant care and auxiliary apparatus for family members with disabilities:
  - If they are necessary to enable a 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 earned income received by family members who are able to work because of such qualified expenses.

Notes

- 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 ten percent of annual income.
- Auxiliary apparatus 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 person with disabilities or other family member to work.[1]
- When a care provider takes care of a child who is under 13 and a person with disabilities who is 13 years of age or older, expenses must be pro-rated appropriately since rules differ in treatment of childcare and disability assistance expenses.

Health and Medical Care Expenses

- 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 the family is eligible for a health and medical care expense deduction, the health and medical care expenses of all family members are counted.
- The PHA calculates health and medical care expenses based on the family's past expenses, but accounting for any anticipated changes in expenses during the certification period.

1. PH Occ GB, Income Determinations, p. 28

Notes

- 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.[1]
- Although HUD revised the definition of health and medical care expenses to reflect the Internal Revenue Service (IRS) general definition of medical expenses, HUD is not permitting PHAs to specifically align their policies with the IRS Publication 502. PHAs must review each expense to determine whether it is eligible in accordance with HUD's definition of health and medical care expenses.
  - While PHA policies may not specifically align with IRS Publication 502, HUD recommends PHAs use it as a standard for determining allowable medical expenses. The PHA may list examples of allowable expenses in their policy as long as they comply with the definition of health and medical care expenses in 24 CFR 5.603. The PHA may not define health and medical care expenses more narrowly than the regulation.

Households Eligible for the Disability Assistance Expense and Health and Medical Care Expenses

- If an elderly or disabled family has both health and medical and disability assistance expenses, a special calculation is required to ensure that the family's 10 percent share is only applied once.[2]
- Because the disability assistance expense is limited by the amount earned by the person enabled to work, the disability allowance must be calculated before the health and medical care allowance.

1. 24 CFR 5.603(b)(2)
2. PH Occ GB, Income Determination, p. 31

Notes

- When the family has disability assistance expenses greater than or equal to 10 percent of annual income, the allowance for health and medical care expenses will be equal to the family's total health and medical care expenses.
- When a family has disability assistance expenses that are less than 10 percent of annual income, the family will receive no allowance for disability assistance expense.
- However, the health and medical care expense allowance will be equal to the amount by which the sum of both disability and health and medical care expenses exceeds 10 percent of annual income. (Total disability assistance expense is added to the total health and medical care expenses, and then the 10 percent threshold is subtracted to determine the health and medical care/disability assistance allowance.)
- If the disability assistance expense exceeds the amount earned by the person enabled to work, the disability assistance allowance will be capped at the amount earned by that individual.
- However, when the household is also eligible for a health and medical care expense allowance, the 10 percent may have been exhausted in the first calculation. Then it will not be also applied to the health and medical care expenses.

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Notes

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 three 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 must be used.

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Notes

- **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.

EXAMPLE: MRS. 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.

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Notes

EXAMPLE: CALCULATION OF PHASED-IN RELIEF

John and Heidi qualify for phased-in relief. Their annual income is $40,000. The PHA verifies their annual 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 annual 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 annual 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 annual health and medical care expenses

- When an eligible family's phased-in relief begins at an interim reexamination, the PHA must process another transaction one year later to move the family to the next phase. The transaction can be either an interim reexamination if triggered, or a non-interim reexamination transaction.
- Prior to the end of the 24-month period, the family may request a hardship exemption under the second category 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.

Notes

- General hardship relief 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 PHA policy) that would not otherwise trigger an interim reexamination.
- The family may request a hardship exemption under the second category regardless of whether the family previously received the health and medical 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 five percent of annual income.
- The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever is earlier.

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Notes

- However, the PHA may, at its discretion, extend the relief for one or more additional 90-day periods while the family's hardship condition continues.

EXAMPLE: GENERAL RELIEF
Tara and Maurice qualify for the health and medical care expenses deduction. They recently had an increase in their health and medical care expenses and are requesting a general relief hardship exemption. The PHA grants the exemption. Their annual income is $30,000. The PHA verifies their annual 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 annual 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 annual health and medical care expenses

Notes

Requirements for Hardships

- For both the childcare and health and medical care/disability assistance hardship categories, PHAs must establish policies:[1]
  - 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 PHA may not conduct an interim to add, remove, or to extend a hardship exemption unless another change triggers an interim. Instead, the PHA will submit a non-interim reexamination transaction.
- PHAs must promptly notify families in writing if they are denied either an initial hardship exemption or an additional 90-day extension of the exemption. The notification must specifically state the reason for the denial.
- If the hardship is approved, PHAs 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 PHA 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. PHAs must provide families 30 days' notice of any increase in rent.

1. Notice PIH 2023-27

Notes

- PHAs 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.

PERMISSIVE DEDUCTIONS

- A PHA may adopt, through written policies, additional deductions from annual income. However, PHAs will not be eligible for additional HUD funding based on application of these deductions.[1]
  - The PHA must include such deductions in its policies.
- Permissive deductions may be used to incentivize or encourage self-sufficiency and economic mobility.[2]
- A permissive deduction might include, for example, an amount of any family earned income, established at the discretion of the PHA, which may be based on the amount earned by particular members of the family; the amount earned by families having certain characteristics; or the amount earned by families or members during certain periods or from certain sources.

1. 24 CFR 5.611(b)
2. PH Occ GB, Income Determination, p. 32

Notes

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UNIT 7 Rent Calculations

Section 1 Total Tenant Payment (TTP) and Utility Allowance

TOTAL TENANT PAYMENT

- Total Tenant Payment (TTP) is the highest of the following amounts, rounded to the nearest dollar:
  - 30% of family's monthly adjusted income
  - 10% of family's total monthly income
  - PHA's minimum rent ($0 - $50 depending on PHA policy); or
  - Welfare rent
    - That part of welfare assistance received from a public agency, specifically designated by that agency to meet the family's actual housing costs.
    - If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount counted is the amount resulting from *one* application of the percentage.
  - For public housing only, the alternative non-public housing rent for non-public housing over-income (NPHOI) families

MINIMUM RENTS

Applying Minimum Rents

- PHAs may implement a minimum rent of zero to $50.
- The minimum rent refers to the total tenant payment.

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Notes

Exemptions to Minimum Rent

- HUD requires PHAs to adopt "hardship exemption" policies
- The PHA must grant an exemption from payment of minimum rent if the family is unable to pay minimum rent because of financial hardship, as described in the PHAs written policies.
- Financial hardship includes these situations:
  - The family has lost eligibility for, or is awaiting an eligibility determination for, a federal, state, or local assistance program.
    - Includes a noncitizen, lawfully admitted for permanent residence, family member who would be entitled to public benefits except for title IV of the Personal Responsibility and Work Opportunity Act of 1996
  - The family would be evicted because it is unable to pay the minimum rent
  - The income of the family has decreased due to changed circumstances, including:
    - Loss of employment
    - Death in the family
    - Other circumstances determined by the PHA or by HUD
- The financial hardship exemption only applies to the payment of minimum rent and not to other elements used to calculate the total tenant payment.
- When a family requests a minimum rent hardship exemption, application of the minimum rent will be *suspended* beginning the month following the family's hardship request.
- During the minimum rent suspension period, the PHA must not charge the family a minimum rent, or, if applicable, discontinue charging the family a minimum rent.

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Notes

- The PHA may not evict the family for nonpayment of minimum rent during the 90-day period beginning the month following the family's request for a hardship exemption.
- The PHA must promptly determine whether a qualifying hardship exists, and if so, whether such hardship is temporary or long term.

1. NO qualifying financial hardship

- If the PHA determines there is no hardship covered by the statute, a minimum rent is imposed retroactively to the time of suspension.
- The family must pay any back rent on terms and conditions established by the responsible entity.

2. TEMPORARY qualifying financial hardship

- If the PHA determines a qualifying financial hardship is temporary, the PHA must reinstate the minimum rent from the beginning of the suspension.
- The family must be offered a reasonable repayment agreement for any amount of back rent owed by the family.

3. LONG-TERM qualifying financial hardship

- If the PHA determines a qualifying financial hardship is long term, the PHA must *exempt* the family from the minimum rent requirements so long as such hardship continues.
- Such exemption shall apply from the beginning of the month following the family's request for a hardship exemption until the end of the qualifying financial hardship.

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Notes

PHA Procedures

- The PHA must notify all families of the right to request minimum rent hardship exemptions.
- Notification must advise families that hardship exemptions are subject to applicable PHA informal hearing procedures.
- The PHA can request reasonable documentation of hardship.

UTILITY ALLOWANCE

- If the family is responsible for the cost of utilities (except telephone), an amount equal to the estimate made or approved by a PHA or HUD of the monthly cost of reasonable consumption of such utilities.
- PHAs must analyze utility allowances annually and revise if costs have increased by 10% or more.
- Public housing utility allowance determination, establishment, and revision requirements may be found in CFR 965.502.

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Notes

Section 2 Public Housing Rent Calculation

TENANT RENT

- *Tenant rent* is the amount payable monthly by a family as rent to the PHA.

UTILITY REIMBURSEMENT

- *Utility reimbursement* is the amount, if any, by which the utility allowance for a unit, if applicable, exceeds the total tenant payment for the family occupying the unit.

INCOME-BASED RENT

- *Total tenant payment (TTP)* is the amount a tenant pays toward rent plus any utility allowance.
- To arrive at a family's tenant rent, the utility allowance for any tenant-paid utilities is subtracted from the family's total tenant payment.
- If the utility allowance exceeds the total tenant payment, the PHA must pay the excess amount (the utility reimbursement) either to the family or directly to the utility supplier on behalf of the family.
  - If the PHA elects to pay the utility supplier directly, the PHA must notify the family of the amount of the utility reimbursement paid to the utility supplier.

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Notes

- The PHA may establish a policy for making quarterly payments of small reimbursements.
  - Quarterly payments are permitted when the monthly reimbursement amount is $15 or less. Reimbursements greater than $15 per month must still be made on a monthly basis.
  - The PHA's policy must state how outstanding payments will be reconciled.
  - The policy must also state whether payments will be made prospectively or retroactively.
  - If the PHA reimburses quarterly and payments are made retroactively, it must establish hardship exemption policies if quarterly payments pose a financial hardship on families.
  - The PHA must make prorated payment if the family moves or leaves the program.
  - This policy is optional. The PHA may choose to make monthly payments for all utility reimbursements.

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Notes

CEILING RENTS

- A PHA using ceiling rents authorized and established before October 1, 1999, may continue to use ceiling rents, provided such ceiling rents are set at the level required for flat rent.
- PHAs must follow the requirements for calculating and adjusting flat rents in 24 CFR 960.253(b) when calculating and adjusting ceiling rents.
- The purpose of ceiling rents is to provide a "cap" or maximum rent for higher income families.
- Ceiling rents are determined for **units**, not for families themselves.
- PHAs may no longer use line 10c (income-based ceiling rent) on the form HUD-50058 to report ceiling rents for any household. Instead, PHAs must use line 10b (flat rent) to report the applicable maximum rental amount.[1]
- Ceiling rents are subject to:
  - Annual reexamination requirements, and;
  - The limitation that the tenant rent plus any utility allowance may not exceed the total tenant payment.
- The tenant rent will be the lower of the TTP or ceiling rent minus any utility allowance.

FLAT RENTS

- The 2015 Appropriations Act requires that flat rents must be set at no less than:
  - 80 percent of the applicable FMR, or
  - 80 percent of the Small Area Fair Market Rent (SAFMR) or where HUD does not publish an SAFMR, 80 percent of the unadjusted rent. The unadjusted rent is the FMR estimated directly from source data that HUD uses to calculate FMRs in non-metropolitan areas.

1. Notice PIH 2021-27

Notes

- For areas where HUD has not determined an SAFMR or an unadjusted rent, PHAs must set flat rents at no less than 80 percent of the FMR or apply for an exception flat rent.
- For low-income housing tax credit (LIHTC) public housing units, it is possible that the minimum flat rent amount may exceed the LIHTC maximum gross rent limit. In the event that these amounts conflict, PHAs should set flat rents so as not to exceed the LIHTC maximum rent.
- The 2015 Appropriations Act permits PHAs to request an exception flat rent that is lower than either 80 percent of the FMR, or 80 percent of the SAFMR or unadjusted rent, if the PHA can demonstrate, through the submission of a market analysis, that current options do not reflect the unit's market value and HUD agrees with the PHA's analysis.
  - A market analysis must be submitted using form HUD-5880 "Flat Rent Market Analysis Summary," which may be accessed at https://www.hud.gov/sites/dfiles/OCHCO/documents/5880.xlsx.
  - Requests can be made by sending an email to flatrentexceptionrequests@hud.gov with the following information attached:
    - Form HUD-5880 "Flat Rent Market Analysis Summary"
    - If applicable, any local market related justifications
  - PHAs must receive written HUD approval before implementing exception flat rents.
  - PHAs with a previously approved flat rent exception request may submit a written request to extend the approved flat rents for up to two additional years by following the requirements outlined in Notice PIH 2021-27.
  - Detailed information on how to request exception flat rents can be found in Notice PIH 2021-27.

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Notes

  - If a PHA has an approved flat rent exception request, the PHA must update flat rents immediately after approval and apply flat rents to new admissions and reexaminations within 60 days of the change.
  - Approved exception requests remain in effect until the end of the 90-day period commencing upon the effective date of HUD's Final Fiscal Year FMRs or the date on which a PHA updates and makes effective its flat rent schedule based on that fiscal year's FMRs, whichever comes first.
  - If HUD denies an exception flat rent request, a PHA may appeal the decision in writing to their HUD field office no later than 30 days after receiving notification of the denial. If HUD denies the appeal, the PHA must immediately set flat rents at no less than the lower of 80 percent of the FMR or SAFMR.

- While awaiting HUD response for any exception request or the appeal for exception request, the PHA may continue to use its current flat rent schedule.
- No later than 90 days after the effective date of the new annual FMRs or SAFMRs, PHAs must implement new flat rents as necessary based on changes to the FMRs/SAFMRs/unadjusted rents or request an exception.
- If the FMR falls from year to year, the PHA may, but is not required to, lower the flat rent to 80 percent of the current FMR.
- For a family that chooses the flat rent option, the PHA must conduct a reexamination of family income at least once every three years.
- The flat rent amount is not locked in for three years. The PHA must revise the flat rent annually as necessary and must offer the family a choice between their applicable income-based rent and the current flat rent.
- PHAs must apply a utility allowance to flat rents as necessary. For units where utilities are tenant paid, the PHA must adjust the flat rent downward by the amount of the utility allowance for the unit.

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Notes

- For example, if the PHA set their flat rent at 80 percent of the current FMR and for a one-bedroom unit in the PHA's area that figure is $400:
  - PHA utility allowance for a one-bedroom unit is $50, the flat rent is $350
  - PHA utility allowance for a one-bedroom unit is $0, the flat rent is $400

- In cases where UAs are applied, PHA should report the amount of the UA on line 10e of the form HUD-50058.

- If an existing family's rent will increase by more than 35 percent as a result of changes to the flat rent, the increase must be phased in.
  - Family may choose between the phased-in flat rent amount or the previously calculated income-based rent.

Example
• The Watson family currently pays $500 flat rent. At their annual: - The PHA has raised the flat rent to $700 - Family's income-based rent is $800 - $500 x 35% = $675 • The PHA offers family choice between $675 phased-in flat rent or $800 income-based rent.
• The Watson family pays $675 phased-in flat rent. At their annual the following year: - The PHA has again raised the flat rent to $750 - Family's income-based rent is still $800 - $675 x 35% = $911.25 • The PHA offers family choice between $750 flat rent and $800 income-based rent.

Notes

CEILING RENTS AND FLAT RENTS

- A PHA could have ceiling rents and flat rents at the same time.
- Ceiling rents are a function of the income-based rent in that when the PHA establishes ceiling rents, the family is then charged THE LESSER of the TTP OR the ceiling rent.
  - So, if a PHA has a flat rent schedule and ceiling rents, the PHA will determine the "lower rent" (line 10d of the 50058) based on the lesser of the TTP or ceiling rent.
  - The PHA then gives the family the choice of the "income-based rent" (which could be the ceiling rent figure) or the flat rent amount established by the PHA.

FAMILY CHOICE OF RENTAL PAYMENT

- The PHA must give families the opportunity to choose between income-based rent or flat rent once a year.
  - Non-public housing over-income (NPHOI) families, as defined at 24 CFR 960.102(b), must pay the alternative non-public housing rent, as applicable.[1]
- PHAs must provide families with sufficient information to make an informed choice. This information must include at least the following, in writing:
  - The PHA's policies on switching type of rent in circumstances of financial hardship
  - The dollar amount of tenant rent for the family under each option
- If the family chose a flat rent for the previous year, the PHA is required to provide the amount of income-based rent for the subsequent year only if:
  - The PHA is conducting an income reexamination; or
  - The family requests the information and submits updated income information.

1. 24 CFR 960.253(a)(3)

Notes

- For a family that chooses the flat rent option, the PHA must conduct a reexamination of family income at least once every three years.
- Except for families a PHA determines exceed the over-income limit, after which the PHA must follow the income and examination requirements under 24 CFR 960.507(c).
- The PHA must conduct a reexamination of family composition at least annually.

Switching from Flat Rent to Income-Based Rent Because of Hardship

- The PHA must adopt written policies for determining when payment of flat rent is a financial hardship for the family.
- Financial hardship includes the following situations:
  - The family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings or other assistance;
  - The family has experienced an increase in expenses for medical costs, child care, transportation, education, or similar items; and
  - Such other situations determined by the PHA to be appropriate.
- A family paying flat rent may at any time request a switch to payment of income-based rent if unable to pay flat rent because of financial hardship.
- If the PHA determines that the family is unable to pay the flat rent because of financial hardship, the PHA must immediately allow the requested switch to income-based rent.
- The PHA shall make the determination within a reasonable time after the family request.

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Notes

- When establishing its policies, a PHA should indicate the time frame in which a family must notify the PHA of a financial hardship and the need to switch rent systems.
- The PHA should be able to act within 30 days, which includes verifying the financial hardship, before switching the family to income-based rent.
- Once a family switches to income-based rent due to financial hardship, family must wait until its next annual reexamination to select the type of rent.

PRORATION OF ASSISTANCE

- A mixed family is a family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.
- An eligible mixed family must be provided prorated assistance.
  - Mixed families who are non-public housing over-income (NPHOI) families pay the alternative non-public housing rent.

CALCULATION OF PRORATED TTP FOR MIXED FAMILIES

1. Determine Total Tenant Payment, using income of all family members, including any family member who has not established eligible immigration status.
2. Subtract the TTP from the flat rent for the unit.
   - Step 2 answer is the maximum subsidy for which the family could qualify if all members were eligible. (Family Maximum Subsidy)

Notes

3. Divide the family maximum subsidy by the number of persons in the family to determine maximum subsidy per family member who has eligible status to get the Member Maximum Subsidy.
4. Multiply the Member Maximum Subsidy by the number of eligible family members. (Eligible Subsidy)
5. Subtract the amount of the eligible subsidy from the unit's flat rent.

- Example: Assume 4 out of the 5 family members are eligible for assistance.

Unit's Flat Rent		$500
Minus TTP	–	300
Family Maximum Subsidy	=	$200

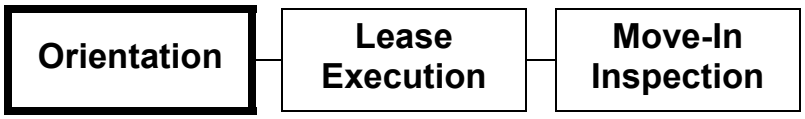
Family Maximum Subsidy		$200
Divided by total family members (5)	÷	5
Equals Member Maximum Subsidy	=	40
Times number of eligible family members (4)	x	4
Equals Eligible Subsidy	=	160

Unit's Flat Rent		$500
Minus Eligible Subsidy	–	160
Equals Revised Total Tenant Payment	=	$340

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UNIT 8 Leasing

Section 1 Leasing Procedures



a. Orientation is held to explain tenant/PHA obligations and go over lease.

b. Questions are answered.



- Documents are reviewed and executed:
  - Lease content
  - Security deposit
  - Others as required by PHA



a. PHA schedules and conducts move-in inspection of unit according to NSPIRE standards and PHA move-in standards.

b. PHA prepares unit(s) for move-in.

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Notes

PREPARING FOR LEASE-UP

Pre-occupancy Duties

- A pre-occupancy conference should be conducted prior to leasing the unit in order to perform the resident orientation.
- Prior to the conference, the manager should:
  - Prepare the lease and other documents
  - Inspect and prepare the unit for occupancy
- When the manager conducts a pre-inspection of the unit, a checklist should be used that records maintenance needs as well as preventive maintenance requirements.
- The manager is responsible to see that all work has been completed and the equipment is in proper working order prior to move-in.
- When the unit is ready for occupancy, the family is notified and the lease-up process takes place.

RESIDENT ORIENTATION

Orientation

- Orientation is an opportunity to familiarize new residents with the property and the rules and regulations and to discuss joint expectations. This is the time to:
  - Explain policies and procedures
  - Visit the on-site facilities
  - Review the features and operation of equipment in their apartment
  - Explain the PHA and resident responsibilities under the lease
  - Provide information on emergency procedures
  - Establish a rapport with the new residents
  - Answer questions

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- The orientation should be conducted by the property manager. There should be a back-up who is prepared to conduct orientations if the property manager is not available. Enough time (one hour at the minimum) should be scheduled for the orientation which should be conducted before the resident moves in.
- Balance professionalism with making residents feel they have made the right decision in choosing to rent in your facility.

Reviewing the Lease with the Family

- The manager is responsible that the family understands the lease provisions prior to signature and occupancy.
- If possible, all members of the family should attend the conference, especially all adult household members.
- The provisions of the lease should be explained thoroughly, including:
  - Responsibilities of the family and PHA
  - Consequences of noncompliance with the lease
  - Grievance and hearing process
  - Annual and interim recertification policy
- A copy of the lease must be provided to the resident. The PHA will retain a copy of the executed lease in the occupancy file.

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UNIT INSPECTION

- The prospective tenant and the manager must conduct a joint move- in inspection of the unit. This should be done prior to execution of the lease agreement.
- The specific condition of the unit, as well as equipment and appliances, should be recorded for each room.
- Items which need repair should be scheduled and repaired prior to occupancy.
- The present condition of walls, floors, counter tops, and appliances should be noted so that the tenant is not charged at a later date for the pre-existing conditions of such items.
- The manager and the family must both sign the inspection form.

FINAL STEPS IN THE LEASING PROCESS

- When the unit is ready for occupancy and the family has met its pre-paid obligations, then the keys should be issued to the family.
- The manager should assure that the family's questions have been answered and that the family is made to feel welcome to the community.

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HUD Requirements for Lease

- HUD included a sample lease in the previous version of the *Public Housing Occupancy Guidebook* (June 2003). PHAs are encouraged to review and use the provisions according to local law and circumstances and PHA policy.
- The lease must cover (24 CFR 966.4):
  a. Identification of parties, dwelling unit, and lease term
     - Must state required VAWA material
  b. Payments due under the lease, including family choice in rents
  c. That tenants will receive notification at least 30 days before an eviction for nonpayment of rent is filed
  d. Redetermination of rent and family composition
  e. Tenant's right to use and occupancy
  f. PHA obligations
  g. Tenant obligations
     - Community service requirement for all nonexempt adult residents
  h. Tenant maintenance
  i. Defects hazardous to life, health, or safety
  j. Preoccupancy and pretermination inspections
  k. Entry of dwelling unit during tenancy
  l. Notice procedures
  m. Termination of tenancy and eviction procedures
     - Grounds for termination
     - Lease termination notice
     - Eviction only by court action
     - Eviction for criminal activity or alcohol abuse
  n. Eviction: Right to examine PHA documents before hearing/trial
  o. Grievance procedures, including a description of the PHA's grievance procedures

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Identification of Party and Premises

- Names of members of household who will reside in unit
- PHAs are required to include bifurcation language in the public housing lease for circumstances that involve domestic violence, dating violence, sexual assault, stalking, and human trafficking, in addition to including VAWA definitions under 24 CFR Part 5, VAWA protections, information on documentation, and remedies available to victims.

Term of Lease

Lease Requirements

- An annual signing process is not necessary.
- The lease must be automatically renewable except for noncompliance with the community service requirement for nonexempt adult residents and families determined to be over-income for 24 consecutive months.
  - The lease will convert to month-to-month for families whose tenancies will be terminated within six months for being over-income if this is the PHA's policy
  - For non-public housing over-income (NPHOI) families who are allowed to execute an NPHOI lease under PHA policy rather than be terminated, leases will not be automatically renewable and renew in accordance with 24 CFR 960.509(b)(2).
- Effective April 28, 2000, it is considered "other good cause" for termination if a family fails to accept the PHA's offer of a revision to an existing lease.
  - The revision must be on a form adopted by the PHA.
  - The PHA must give the family written notice of the offer of a revision at least 60 calendar days before the revision is scheduled to take effect.
  - The offer of a revision must specify a reasonable time limit (e.g., 10 calendar days) within the 60-day period for acceptance by the family.

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Payments Due Under Lease

- Rent in a fixed amount.
- Utilities, services, and equipment furnished by PHA specifying quantity and type
- The lease must contain a provision or addendum that tenants will receive notification at least 30 days before an eviction for nonpayment of rent is filed.
- Late fee penalties at the PHA's option.
- Charges to the tenant for maintenance and repair beyond normal wear and tear:
  - The lease shall state the basis for the determination; e.g., posted schedule of charges for repair incorporated by reference into the lease.
- Amounts charged for utility consumption in excess of an allowance stated in the lease are only permitted if charges are determined by an individual check meter servicing the unit or result from use of major tenant-supplied appliances.
- Charges assessed shall not be due and collectible until two weeks after PHA's written notice of such changes and are under adverse action notice requirements.
- The Lease may require a security deposit not to exceed one month's rent or reasonable fixed amount required by PHA, at the option of the PHA:
  - May have provision for gradual accumulation
  - Interest earned may be refunded to tenant on vacation of premises or used for tenant services or activities, subject to applicable laws.

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Rent Redetermination

- The lease shall provide for redetermination of rent and family composition, including:
  - Annual choice of families whether to pay income-based or flat rent.
  - Frequency of regular rental redetermination and basis for interims if family chooses income-based rent.
  - Agreement by tenant to furnish applicable information needed for certifications for rent, eligibility, and unit size determinations.
  - Agreement by tenant to transfer to appropriate size dwelling unit based on family composition on PHA notice that unit is available.
- When the PHA redetermines total tenant payment or that a unit transfer is needed based on family composition the PHA must notify tenant that they can:
  - Ask for an explanation and ask for a hearing under the PHA grievance procedures if the tenant doesn't agree with the determination.

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Notes

Tenant's Right to Use and Occupancy

- The Lease shall address the following provisions:
  - Exclusive use and occupancy of the unit by authorized members of the household.
  - Reasonable accommodation of guests. The term "guest" means a person staying in the leased unit with the consent of a household member.
  - With the consent of the PHA, the tenant may engage in legal profit-making activities in the dwelling unit, which must be incidental to primary residential use.
- PHA has the option of approving or disapproving use and should consider the following in making the decision:
  - Building and health codes and requirements for license or governmental approval
  - PHA insurance coverage
  - Utility consumption
  - Damage to unit
  - Development traffic and parking
  - Disturbance of other residents
  - Attraction of nonresidents to development
  - Use of tenant business as a cover for drug dealing

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Notes

- May include foster children or live-in aides with consent of PHA.
- PHA may adopt reasonable policies as to when consent is given or denied, including:
  - Whether the addition will require a transfer
  - Whether a unit is available
  - PHA's obligation to make reasonable accommodation for persons with disabilities.
- Live-in aide definition remains same:
  - Person who resides with a person who is elderly or who has disabilities and:
    - Is determined to be essential to the care and well-being of the person.
    - Is not obligated for the support of the person.
    - Would not be living in the unit except to provide the necessary supportive services.

Notes

PHA Obligations

- The Lease must set forth PHA's obligations, which shall include the following:
  - Maintain the premises and development in safe, habitable condition that is functionally adequate, operable, and free of health and safety hazards.
  - Comply with building and housing code requirements and HUD regulations materially affecting health and safety.
  - Make necessary repairs to the premises.
  - Keep development buildings, facilities, and common areas, not otherwise assigned to the tenant for maintenance and upkeep, in clean and safe condition.
  - Maintain electrical, plumbing, sanitary, heating, ventilating, and other facilities and appliances, including elevators, in good and safe working order.
  - Provide and maintain receptacle and facilities (except those for exclusive use of the family) for deposit of ashes, garbage, rubbish, and other waste.
  - Supply running water and reasonable amounts of hot water and heat at appropriate times of the year except:
    - In buildings not required to be so equipped by law.
    - Where heat and hot water is generated by an installation within exclusive control of the tenant and supplied by a direct utility connection.
    - See the NSPIRE standards for the requirements for minimum heating standards in public housing units.
  - Establish reasonable pet policies
  - Notify the tenant of specific grounds for any adverse action by the PHA such as:
    - Proposed lease termination
    - Transfer of tenant to another unit
    - Charges for maintenance or repair
    - Charges for excess utility consumption

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- When the PHA is required to afford the tenant the opportunity for a hearing under the PHA grievance procedures the notice of proposed adverse action shall inform the tenant of his/her right to request such a hearing.
- In the case of a lease termination, a notice of lease termination consistent with that provision of the lease shall constitute adequate notice of proposed adverse action.
- In adverse action other than lease termination, the PHA shall not take the proposed action until the time to request a hearing has expired, or if a hearing is requested by the tenant, until the grievance process is completed.
- In circumstances involving domestic violence, dating violence, sexual assault, stalking, or human trafficking, the PHA may consider lease bifurcation as provided in 24 CFR 5.2009.

Tenant Obligations

- Not to assign the lease or to sublease the premises.
- Not to provide accommodations for boarders or lodgers.
- Use the premises solely as private dwelling for the tenant and tenant's household identified in the lease and not to use or permit its use for any other purpose.
- Abide by necessary and reasonable PHA rules posted in the development office and incorporated by reference in the lease.
- Comply with tenant obligations required by building and housing codes materially affecting health and safety.
- Keep premises and other assigned areas in a clean and safe condition.
- Dispose of all ashes, garbage, rubbish, and other waste from the premises in a clean and safe condition.

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Notes

- Use only in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities including elevators.
- Refrain from destroying, defacing, damaging, or removing any part of the premises or development (applies to household members and guests).
- Pay reasonable charges (other than for wear and tear) for repair of damages to leased unit or to the development caused by the tenant, household members, guests, or other persons under the tenant's control.
- Assure that all members of the family who are subject to the community service requirement comply with the service requirement or are no longer residing in the unit.
- Conduct self and have others on the premises with consent to conduct themselves in a manner which will not disturb their neighbors' peaceful enjoyment of their accommodations, and which is conducive to maintaining the development in a safe, habitable condition that is functionally adequate, operable, and free from health and safety hazards.
- To assure that no tenant, member of the tenant's household, or guest engages in:
  - Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents; or
  - Any drug-related criminal activity on or off the premises;
- To assure that no other person under the tenant's control engages in:
  - Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents; or
  - Any drug-related criminal activity on the premises.

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Notes

- To assure that no member of the household engages in an abuse or pattern of abuse of alcohol that affects the health, safety, or right to peaceful enjoyment of the premises by other residents.

Community Service Requirement

Lease Requirements

- Families residing in public housing are subject to the community service requirement. For these families, the lease must specify that it is renewed automatically for all purposes, unless the family fails to comply with the service requirement.
  - Violation of the service requirement is grounds for nonrenewal of the lease at the end of the 12-month lease term, but not for termination of tenancy during the course of the 12-month lease term.
- Except for any family member who is an exempt individual, each adult resident of public housing must:
  - Contribute 8 hours per month of community service (not including political activities); or;
  - Participate in an economic self-sufficiency program for 8 hours per month; or
  - Perform 8 hours per month of combined activities.

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Notes

Exemptions

- Exemptions to the requirement to perform community service include any adult family member who:
  - Is elderly
  - Is blind or disabled as defined under law and therefore is unable to comply with the community service requirement or is the primary caretaker of such an individual
  - Is engaged in work activities
  - Meets requirements under a state program funded under the Social Security Act or by any other state welfare program, including the state's welfare-to-work program
  - Is a member of a family receiving assistance, benefits, or services under a state program funded under Part A of Title IV of the Social Security Act, or under any other welfare program of the state, including the state's welfare-to-work program, and including SNAP, and is not in noncompliance with state or TANF requirements
  - Is a member of a non-public housing over-income family

Noncompliance

- If the PHA determines that a family member who is required to fulfill the community service requirement has violated this family obligation, the PHA must notify the tenant. The PHA notice to the tenant must:
  - Briefly describe the noncompliance;
  - State that the PHA will not renew the lease at the end of the 12-month lease term unless:
    - The tenant and any other noncompliant resident enter into a written agreement with the PHA, in the form and manner required by the PHA, to cure such noncompliance, and in fact cures such noncompliance in accordance with the agreement; or
    - The family provides written assurance satisfactory to the PHA that the tenant or other noncompliant resident no longer resides in the unit.

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Notes

Additional CSSR Requirements

- Community service and self-sufficiency requirements must be included in the ACOP.
- All adult members of a resident family sign a certification (such as Attachments A and B in Notices PIH 2015-12 or 2016-05) that they have received notice of CSSR requirements, read the requirements, and understand that if they are not exempt, failure to comply with the requirements will result in nonrenewal of their lease.
  - Certifications such as Attachment A are signed by all adult family members at lease execution or reexamination.
  - Certifications such as Attachment B are signed by nonexempt adults at annual reexamination.
- PHAs must provide resident families with a copy of the PHA policies and HUD requirements regarding community service at the time of lease execution.
- By signing a certification such as Attachment A, an adult family member certifies that they have received the notice of CSSR requirements, read the requirements, and understand that if they are not exempt, failure to comply with the requirements will result in nonrenewal of their lease.
  - Certifications such as Attachment A are signed at the time of initial lease execution for new families entering the program.
  - Any adults subsequently added to the lease or family members who come of age are also responsible for signing the certification.

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Notes

- If claiming exemption, residents must provide documentation that they qualify for the exemption.
  - PHAs must annually reverify the status of exempt family members when verifying compliance of nonexempt family members.
- If a resident is denied exempt status, they may dispute the decision through the PHA's grievance procedures.
- Certifications such as Attachment B are signed by all nonexempt family members at annual reexamination to certify that they understand the requirement.
- If a nonexempt family member is noncompliant, the PHA must notify them in writing of:
  - The consequences of noncompliance
  - How to avoid these consequences
  - Their right to a grievance hearing
- To ensure regulatory compliance, PHAs must verify exemptions to the community service requirements annually. PHAs must include this obligation in the community service policy.
  - At least 30 days before lease expiration, the PHA reviews the exempt or nonexempt status and compliance of family members.
  - For individuals who are 62 years of age or older, it is not necessary to verify exemption status annually.
  - Certification of compliance will be discussed in greater detail in the next chapter.
- Notice PIH 2015-12 emphasizes the regulatory prohibition in 24 CFR 960.609 that no PHA may substitute community service activity performed by a resident for work ordinarily performed by a PHA employee.

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- The notice also reminds PHAs that when a family member is determined noncompliant, the family may request a grievance hearing and must be provided due process, just as with any other violation of lease requirements.
  - We will discuss due process and grievance hearings in a later chapter.

SMOKE-FREE PUBLIC HOUSING

- On December 5, 2016, HUD issued the Instituting Smoke-Free Public Housing Final Rule that requires PHAs that operate public housing to amend their PHA plans and tenant leases to implement smoke-free policies no later than July 30, 2018[1].
- Smoke-free policies must ban the use of *prohibited tobacco products* in all public housing living areas, interior areas, and administrative offices, as well as all outdoor areas up to 25 feet from public housing and administrative office buildings[2].
  - *Prohibited tobacco products* are defined as items that involve the ignition of tobacco leaves such as (but not limited to) cigarettes, cigars, pipes, and waterpipes (hookahs).
    - Electronic Nicotine Delivery Systems (ENDS), also called e-cigarettes, are not prohibited under the rule but PHAs have the discretion to prohibit them as part of their smoke-free policies.
- PHAs may limit smoking to designated smoking areas outside of restricted areas, may create additional smoke-free areas, or may make their entire grounds smoke-free.
  - Restricted areas include hallways, rental and administrative offices, community centers, day care centers, laundry centers, and similar structures.

1. FR Notice 12/5/16
2. 24 CFR 966.53(a)

Notes

- The rule does not prohibit individual residents from smoking.
  - PHAs should continue to lease to individuals who smoke.
- The rule does not apply to mixed-finance developments or properties that have converted under RAD.

TERMINATIONS

Mandated Termination of Tenancy

- The PHA lease *must* provide for the immediate eviction of persons convicted of the production or manufacture of methamphetamine on the premises of federally assisted housing.
- PHAs are mandated to evict in this case.

Allowable Termination of Tenancy

Required Lease Provisions

- The PHA lease *must* provide that termination of tenancy is allowed under all of the following circumstances:
  - Abuse or pattern of abuse of alcohol by a household member that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents
  - Illegal drug use by a household member
  - A pattern of illegal drug use by a household member that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents
  - False or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers furnished by the tenant
  - Drug-related criminal activity by any tenant, member of the tenant's household, or guest on or off the premises

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- Drug-related criminal activity on the premises by any other person under the tenant's control
- Criminal activity by a covered person that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents, PHA management staff residing on the premises, and/or persons residing in the immediate vicinity
- Smoking of prohibited tobacco products in restricted areas or any other areas the PHA has designated as smoke-free by tenants, household members, guests, or other persons under the tenant's control.

- PHAs may consider circumstances such as nature of lease violation, severity, etc.

Optional Lease Provisions

- The PHA lease *may* provide for eviction of a tenant who is:
  - Fleeing to avoid prosecution, or custody or confinement after conviction for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or is a high misdemeanor in the state of New Jersey
  - Violating a condition of probation or parole imposed under federal or state law.

Tenant Maintenance

- The lease may provide that the tenant performs seasonal or other maintenance tasks, as specified in the lease, where similar to customary tasks required in similar dwelling units provided that such provision is included as good faith by the PHA, not to evade the PHA's obligations.
- The PHA must exempt tenants who are unable to perform tasks because of age or disability.

Notes

Defects Hazardous to Life, Health, or Safety

- Rights and obligations of both parties must be stated where damages occur to this extent.
- The tenant must immediately notify property management of damage.
- The PHA is responsible for repair of the unit within a reasonable time but if it is tenant-caused (or household member or guest), it will be billed to the tenant.
- Standard alternative accommodations must be offered, if available, where necessary repairs cannot be made within a reasonable time.

What If the Damage is Tenant-Caused?

- The PHA must move the family out of a damaged and dangerous unit.
- No exception for cases where the tenant or guest caused the damage.
- The PHA may seek to terminate the lease as soon as possible.
- If occupancy is a threat to health or safety, the shortness of lease termination notice may fall under:
  - "Notice for a reasonable time considering seriousness of the situation."
- Provisions must be made for abatement of rent in proportion to seriousness of damage and loss of value as a dwelling if:
  - The PHA does not make repairs within a reasonable time when obligated, or
  - Alternative accommodations are not provided as obligated.
- No abatement if:
  - Tenant rejects alternative accommodation, or
  - Damage was caused by tenant, tenant's household, or guests.

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Move-In and Move-Out Inspections

- The PHA and tenant representatives are obligated to inspect the premises prior to occupancy.
- The PHA is to furnish the tenant with a written statement of:
  - Condition of the dwelling unit and a list of equipment provided with the unit:
    - Signed by the PHA and tenant
    - Copy in the tenant file.
- The PHA must inspect upon move-out.
  - Charges to be made for maintenance beyond normal wear and tear after inspection for damages.
    - Arrangements to be made for the tenant to participate in the inspection.
    - An exception is made if the tenant vacates without notice to the PHA.

Entry of Premises During Tenancy

Non-emergency

- Reasons for entry:
  - Routine inspections and maintenance
  - Making improvement or repairs
  - Show premises for releasing
- During reasonable hours.
- A written statement specifying purpose of entry is delivered to the premises at least 2 days before entry.

Emergency

- No advance notice required:
  - A written statement must be left in the unit if the tenant and other adult members are not home, specifying:
    - Date
    - Time
    - Purpose of entry

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Notice Procedures

- The lease shall provide procedures to be followed by the PHA and the tenant in giving notice to each other.
- **Notice to tenant by the PHA** shall be in writing and delivered:
  - To the tenant or adult member of the household, or
  - Sent by first-class mail properly addressed to the tenant.
- This is not applicable to notice for entry described above.
- If the tenant is visually impaired, all notices must be in an accessible format if requested.
- **Notice to the PHA by tenant** shall be in writing and delivered to the development office or PHA central office or sent by first-class mail properly addressed.

Amending Lease

- PHAs must provide tenants with written notice and an opportunity to comment (30 days minimum), according to provisions in 24 CFR 966.5. Modification may be either in the body of the lease or in a lease addendum and must be executed by both parties.

Signature Clause

- The lease shall provide a signature clause showing that the lease has been executed by the tenant and the PHA.

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LEASE REQUIREMENTS FOR NON-PUBLIC HOUSING OVER-INCOME (NPHOI) FAMILIES

- If PHA policy permits a family whose income has exceed the over-income limit for 24 consecutive months to remain in a public housing unit as an NPHOI family, the family must execute a new lease within 60 days of the PHA's notice of such or the next lease renewal, whichever is sooner.
- If the tenant does not execute the lease within this time period, the PHA must terminate the tenancy of the no more than six months after the notification.
- If permitted under PHA policy, the PHA may permit an over income family to execute the lease beyond this time period, but before termination of the tenancy, if the over-income family pays the PHA the total difference between the alternative non-public housing rent and their public housing rent dating back to the point in time that the over-income family was required to execute the lease.
- The NPHOI family will continue to be a public housing program participant under the public housing lease until the family executes a new non-public housing lease.
- At a minimum, the non-public housing over-income lease must contain the provisions outlined in 24 CFR 960.509

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Section 2 Assistance Animals

- Notice FHEO 2020-01, published January 28, 2020, provides guidance to help PHAs and other housing providers distinguish between a person with a non-obvious disability who has a legitimate need for an assistance animal and a person without a disability who simply wants to have a pet or avoid the costs and limitations imposed by the PHA's pet policies.
- FHEO 2020-01 makes clear that the notice is guidance and a tool for PHAs and other housing providers to use at their discretion and provides a set of best practices for addressing requests for assistance animals.
  - The notice should be read together with HUD's regulations prohibiting discrimination under the FHA, including the HUD/DOJ Joint Statement on Reasonable Accommodation.

TWO TYPES OF ASSISTANCE ANIMALS

- There are two types of assistance animals:
  1. Service animals, and
  2. Other animals that do work, perform tasks, provide assistance, and/or provide therapeutic emotional support for individuals with disabilities (referred to in the FHEO guidance as *support animals*).
- Assistance animals are not pets. An animal that does not qualify as a service animal or support animal is a pet for purposes of the FHA.
  - A PHA may charge a fee or deposit for pets in its policy, subject to local law, but not for service animals or other assistance animals (support animals).

Notes

- While most requests for reasonable accommodations involve one animal, requests sometimes involve more than one animal (for example, a person has a disability-related need for both animals, or two people living together each have a disability-related need for a separate assistance animal). The decision-making process in Notice FHEO 2020-01 should be used for all requests for exceptions or modifications to the PHA's rules, policies, practices, and procedures so that persons with disabilities can have assistance animals in the housing where they reside.

Service Animals

- PHAs should initially follow the Department of Justice (DOJ) analysis in assessing whether an animal is a service animal under the Americans with Disabilities Act (ADA).
- Under the ADA, *service animal* means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability.
    - As a best practice, housing providers may refer to the questions used for determining whether an animal is a service animal under the ADA as outlined in Notice FHEO 2020-01.

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Support Animals (Assistance Animals Other Than Service Animals)

- When the animal does not meet the definition of *service animal*, PHAs and other housing providers may use the relevant questions outlined in Notice FHEO 2020-01 to help them make a decision regarding the reasonable accommodation.
  - If the individual has requested a reasonable accommodation – that is, asked to get or keep an animal in connection with a physical or mental impairment or disability, the PHA would then consider the "Criteria for Assessing Whether to Grant the Requested Accommodation" outlined in the notice.
  - If not, the PHA or other housing provider is not required to grant a reasonable accommodation that has not been requested.

Criteria for Assessing Whether to Grant the Requested Accommodation

- If the person has an observable disability or the housing provider (or agent making the determination for the housing provider) already has information giving them reason to believe that the person has a disability, the PHA should determine whether there is a connection between the person's disability and the animal.
  - The person requesting the accommodation should provide information that reasonably supports that the person seeking the accommodation has a disability and that the animal does work, performs tasks, provides assistance, and/or provides therapeutic emotional support with respect to the individual's disability.
  - Notice FHEO 2020-01 discusses the specific type of information about the disability that may be requested and the types of allowable documentation.

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Type of Animal

- The PHA may also consider whether the requested animal is an animal commonly kept in households.
  - An *animal commonly kept in households* would be a dog, cat, small bird, rabbit, hamster, gerbil, other rodent, fish, turtle, or other small, domesticated animal that is traditionally kept in the home for pleasure rather than for commercial purposes. For purposes of this assessment, reptiles (other than turtles), barnyard animals, monkeys, kangaroos, and other non-domesticated animals are not considered common household animals.
- If the individual is requesting to keep a unique animal not commonly kept in households, the individual is encouraged to submit documentation from a health care professional demonstrating the disability-related need for the animal.

General Consideration of the Reasonableness of the Request

- The FHA does not require a dwelling to be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others.
- A PHA or other housing provider may, therefore, refuse a reasonable accommodation for an assistance animal if the specific animal poses a direct threat that cannot be eliminated or reduced to an acceptable level through actions the individual takes to maintain or control the animal (e.g., keeping the animal in a security enclosure).
- A reasonable accommodation may include a reasonable accommodation to a land use and zoning law, Homeowners Association (HOA) rule, or co-op rule.

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- A person with a disability is responsible for feeding, maintaining, providing veterinary care, and controlling his or her assistance animal. The individual may do this on his or her own or with the assistance of family, friends, volunteers, or service providers.

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Section 3 Pets in Public Housing

- Final rule on Pet Ownership in Public Housing was published in the *Federal Register* on July 10, 2000.
- Provision effective August 9, 2000.
  - PHA Annual Plans required to describe pet policy beginning with PHAs with fiscal years that began on or after January 1, 2001.
  - PHA Annual Plan process is subject to public hearing, Resident Advisory Board consultation, and HUD review.
- This regulation does not include the rules for elderly or disabled federally-assisted rental housing, which are located at 24 CFR Part 5, Subpart C. However, there are few differences between the regulations for general occupancy developments and the regulations for designated elderly, designated disabled, and mixed population developments. We will point out the major differences below
- This regulation does not apply to assistance animals that assist persons with disabilities or assistance animals that visit public housing developments covered under the regulation.
  - PHAs may not apply or enforce any policies established under this provision against animals that are necessary as a reasonable accommodation to assist, support, or provide service to persons with disabilities.
  - PHAs are not allowed to limit or impair the rights of persons with disabilities, including the regulation of assistance animals.

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OWNERSHIP CONDITIONS

- A resident of a dwelling unit in public housing may own one or more common household pets or have one or more household pets in the dwelling unit if the resident maintains each pet:
  - Responsibly
  - In compliance with applicable state and local public health, animal control, and animal cruelty laws and regulations
  - In accordance with PHA policies.

LAW ALLOWS PHA TO ESTABLISH REASONABLE REQUIREMENTS

- Reasonable requirements may include but are not limited to:
  - Requiring payment of:
    - A non-refundable nominal fee to cover the reasonable operating costs to the development relating to the presence of pets (prohibited in designated disabled, designated elderly, and mixed population developments);
    - A refundable pet deposit to cover additional costs attributable to the pet and not otherwise covered (such as damage to the unit by a particular pet); or
    - Both of the above (in general occupancy developments only).
  - Limitations on the number of animals in a unit, based on unit size
  - Prohibitions on types of animals that the PHA classifies as dangerous, provided that such classifications are consistent with applicable state and local law
  - Prohibitions on individual animals, based on certain factors, including the size and weight of animals

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- Restrictions or prohibitions based on size and type of building or development or other relevant conditions;
- Registration of the pet with the PHA
- Requiring pet owners to have their pets spayed or neutered.

Restrictions

- A PHA may not require pet owners to have any pet's vocal cords removed.
- Per letter from HUD to executive directors September 28, 2017, HUD prohibits PHA policy requiring cats in public housing be declawed.
- The PHA may not require evidence of liability insurance.
  - HUD states it is not a "reasonable requirement"
  - Such a requirement could make it impossible for most residents to have pets, thus frustrating the intent of the statute.

Pet Deposit

- No pet deposit is required.
- In designated disabled, designated elderly, and mixed population developments the pet deposit must not exceed the higher of the total tenant payment or such reasonable fixed amount as the PHA may require.
- PHA pet policies may permit a gradual accumulation of the pet deposit.
- A PHA that requires a resident to pay a pet deposit must place the deposit in:
  - An account of the type required under applicable state or local law for pet deposits; or
  - If a state or local law has no requirements regarding pet deposits, for rental security deposits if applicable.

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- The PHA must comply with such applicable law as to retention of the deposit, interest, and return of the deposit or portion of the deposit to the resident, and any other requirements.

Additional Information in the Final Rule

- Because of variations among local communities regarding the definition of "common household pet," HUD did not define the term.
  - Each PHA should define "allowable household pets," "responsible pet ownership," "nominal fee" and "reasonable" regulations.
- The provision allowing a PHA to prohibit types of animals classified as dangerous is statutory.
  - In some cases, state or local law may govern the classification. In these cases, PHA pet policy must be consistent with state or local law.
  - Likewise, many states and localities have laws regarding farm and exotic animals.
- Rather than requiring that pet deposits be interest-bearing, HUD revised the proposed rule to state that local legal requirements will govern escrow accounts as to interest and other matters.
- The PHA's reasonable requirements may include:
  - Certification of a licensed veterinarian or a state or local authority that pet has had all its shots required by state or local law;
  - Information sufficient to identify the pet and to demonstrate that it is a common household pet;
  - The name, address, and phone number of one or more responsible parties who will care for the pet if the owner is unable to do so for any reason.

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- Where appropriate to local conditions (including size and type of building), a PHA could institute some pet-free areas.
  - However, HUD expects PHAs, consistent with statutory intent, to generally allow pet ownership.
  - HUD acknowledges that residents of particular housing could argue to their PHA that there are characteristics of that housing which make various limitations on pet ownership appropriate.

Additional Guidance

- Some private sector property managers require two pictures of each pet:
  - One picture is kept in the resident file.
  - The other picture is kept in a "pet" binder, so the manager can identify loose animals.
    - Pictures of pets can be arranged by color, breed, etc.
- In the private sector, many developments find that allowing pets is a very effective marketing strategy.
- Big dogs do not necessarily create more disturbance or damage than small dogs.
- Some managers as a practice, before approving a dog, show dog owners how to handle a plastic bag when cleaning up outside.

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Section 4 House Rules

- House rules are common practice in both the subsidized and private rental markets.
- House rules are generally adopted as "expanded" definition and/or requirements of occupancy intended to promote a high quality of life in multi-family rental housing where families must live in close proximity to one another.
- HUD Handbook 4350.3 states that house rules:
  - Must be reasonable.
  - Must be related to the safety, care, and cleanliness of the building and/or the safety and comfort of the tenants.
  - Must not controvert HUD requirements.
  - Must be provided to tenants with at least 30 days' notice before implementing any revisions.
- This is solid guidance for PHAs, as well, given HUD's interest in assuring that tenants' rights are not abridged.
- Certain forms of lease addenda can be eliminated if:
  - Requirements thereof are made a part of house rules, and
  - Rules are incorporated in the lease by reference and executed by the family and agency.
- Examples include:
  - Rules for keeping of pets
  - Maintaining drug-free housing

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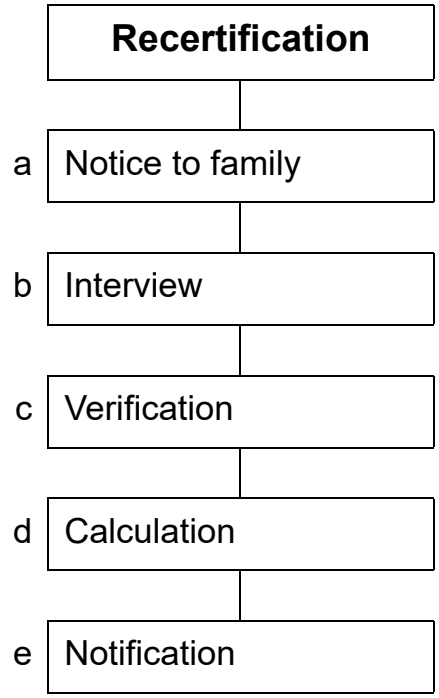
- House rules "carry more weight" if they are actually made a part of the lease. However, if they are duly referenced in the lease as "binding" and executed by the family, most courts will state that they carry the force and effect of contract.
- PHAs should review state and local landlord/tenant law for guidance on both the "form" and the "content" of house rules (to minimize the potential for legal challenge should the PHA elect to terminate for violation of house rules).
- PHAs should never include any terms in the house rules which would not be practically or legally enforceable.

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UNIT 9 Continued Occupancy

Section 1 Recertification Procedures

Annual Activities



Interim Activities (Between Annual Activities)

Interim Recertification

Interim examinations must be conducted in accordance with HUD regulations, PHA policies and the PHA plan.

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ANNUAL RECERTIFICATION PROCESS

- The primary responsibility for recertifications, regardless of who performs them, usually lies with the manager.
- Therefore, the manager must know the HUD rules and eligibility factors in order to ensure that recertification activities are performed accurately.

Family Choice of Rental Payment

- The PHA must allow families residing in public housing units to elect annually whether to pay income-based or flat rent.
  - Non-public housing over-income (NPHOI) families, as defined at 24 CFR 960.102(b), must pay the alternative non-public housing rent, as applicable and are not given a choice between income-based and flat rent.[1]
- For families that are paying flat rents, the PHA will review the income of such family not less than once every three years.
  - Except for families a PHA determines exceed the over-income limit, after which the PHA must follow the income and examination requirements under 24 CFR 960.507(c).
  - That is, if the PHA has a policy to do recertifications for flat rent families every three years, if the family goes over income, the PHA must review the family's income at 12 and 24 months—the three-year policy would not apply for such families.[2]
- PHAs must provide residents with enough information to make an informed choice.

1. 24 CFR 960.253(a)(3)
2. Notice PIH 2023-03

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Notes

Annual Recertification

- For families paying flat rent, PHAs should notify families annually of their choice to continue paying flat rent or to switch to income-based rent.
- All families and single persons, including the elderly, who pay income-based rent must be recertified at least annually, typically conducted as of the anniversary date.
- For all non-public housing over-income families, the PHA may not conduct an annual reexamination of family income.
- Recertifications may be conducted in person or remotely under certain circumstances, depending on PHA policy.
- Families who move in mid-month will have a recertification effective date of the first day of that same month the following year.
  - *Example*: A family leases up March 21. The family's reexam date will be March 1.
- Some PHAs or developments conduct all their recertifications so that they are effective on the same date.
  - If using this "mass recertification" method, the PHA should obtain a letter of approval from HUD.
  - When using mass recertification, annual recertification for new move-ins will be conducted in less than a 12 month period. For example: 2/20 move-in; 10/1 property recerts; 10/1/20 recertification instead of 2/21.

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- Well before the recertification date, at a time established in the PHA's Admissions and Continued Occupancy Policy, the PHA should:
  - Inform family of their ability to elect whether to pay income-based or flat rent
    - Provide residents with enough information, i.e., rent amounts under both options, to make an informed choice
  - Have the family certify regarding their choice
- The recertification process usually begins at least 90 days prior to the recertification effective date.

Income Calculations at Annual Reexamination

- Unlike for new admissions or at an interim reexamination, for all annual reexaminations, the PHA must determine the family income for the previous 12 months and use that amount as the family income, unless using a streamlined income determination or Safe Harbor income determination dated within the last 12 months from a means-tested federal public assistance program.[1]
- In determining income for the previous 12-month period, adjustments must be made for any change in income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination.
  - A change in income may be a loss of income or the addition of a new source of income.
  - Changing to a different employer in the prior year does not necessarily constitute a change if the income earned from either employer is substantially the same.
  - The PHA should look at the entirety of the family's unearned income and earned income from the prior year in which earned income may have been one constant job or many different jobs that start and stop.

1. 24 CFR 5.609(c)(2)

Notes

- Income from assets, however, is always anticipated, irrespective of the income examination type.
- Notice PIH 2023-27 lists the steps for calculating both earned and unearned income at annual reexamination.

Families Paying Income-Based Rent

- If family elects to pay income-based rent, the recertification must be finished at least a full calendar month prior to the effective date in order to give proper written notice to the family of a rent increase.
- The PHA's Admissions and Continued Occupancy Policy will specify the amount of notice time needed.
- If the family does not respond to an appointment for recertification, a follow-up notice should be sent.
- Families are given from two to four chances to respond before an eviction process is started, depending on PHA policy.
- When the family responds, completion of a Personal Declaration Form by the resident is recommended at the reexamination.
- During the recertification interview, the PHA should:
  - Have the head of household complete a recertification application form and certify by his/her signature that all information is current, complete, and accurate.
  - Compare the new application to the most recent certification in the family's file to identify changes in income, allowances, and family composition.
- All factors affecting continued eligibility, such as income, assets, deductions and allowances, and family composition must be verified, even if nothing has changed.
  - Except optionally in the case of assets, as noted below.

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- The TTP is calculated, and the appropriate utility allowance is deducted in order to determine the tenant rent.
- The family is mailed a notice of the rent change.

Effective Date of Annual Reexamination Results

- PHAs should give families at least 30 days' notice of any rent increase.[1]
- Families who fail to cooperate with the PHA in providing the necessary information must be treated in accordance with PHA policy.
- When the family causes an unreasonable delay in reexamination processing, the PHA may:
  - If the family's rent decreases, implement the decrease the first of the month following the completion of the reexamination processing.
  - If the family's rent increases, implement the increase retroactive to the family's reexamination effective date.

Community Service Requirement

- The PHA must specify that the lease will not be renewed automatically if the family fails to comply with the community service requirement.
- Violation of the community service requirement is grounds for nonrenewal of the lease at the end of the 12-month lease term.
  - Violation of the service requirement is not grounds for termination of tenancy during the course of the 12-month lease term.
- The PHA must review family compliance with the community service requirement and must verify compliance annually at least 30 days before the end of the 12-month lease term.

1. Industry practice

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Notes

- The PHA may accept self-certification of compliance or may require certification from a third party.
  - The PHA must validate a sample of self-certifications by reviewing them for completeness.
  - Should the PHA opt for self-certifications:
    - The PHA must develop a standardized self-certification form for the collection of HUD-specified information.
    - The PHA must notify nonexempt applicants and residents that self-certification forms are available and that a sample of self-certifications will be validated through third-party documentation.
    - The PHA must elect a sample of files for validation, using Appendix C of Notice PIH 2016-06 to determine the required sample size.
    - The PHA must obtain third-party documentation of compliance, using verification procedures as required by Notice PIH 2018-18.
    - Notice PIH 2016-06 describes HUD's requirements for PHAs that opt to accept self-certifications.
- The PHA must retain reasonable documentation of service requirement performance or exemption in participant files.

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Section 2 The Interim Recertification Process

- Interim examinations must be conducted in accordance with HUD regulations, PHA policies and the PHA plan.[1]
- The PHA must adopt policies prescribing when and under what conditions the family must report a change in family income or composition.
- The PHA must estimate the income of the family for the upcoming 12-month period to determine family income for an interim reexamination.[2]

NON-INTERIM REEXAMINATIONS

- Families may experience changes within the household that do not trigger an interim reexam under HOTMA but still need to be reported by the PHA to HUD. HUD created a new action code on the Form HUD-50058. Non-interim reexamination transactions.
- Notice PIH 2023-27 has a list of transactions that will trigger a non-interim reexamination transaction.

CHANGES IN HOUSEHOLD COMPOSITION

- The family is required to report all changes in family composition.
- PHAs determine the timeframe in which reporting happens.
  - For example, within 10 business days of the change.

1. 24 CFR 960.257(d)
2. 24 CFR 5.609(c)(1)

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- The addition of a family member as a result of birth, adoption, or court-awarded custody does not require PHA approval. However, the family is required to promptly notify the PHA of the addition.[1]
  - What qualifies as "promptly" is defined by PHA policy.
- A family must request PHA approval to add a new family member or other household member (i.e., live-in aides, foster child, or foster adults).
- The family must promptly notify the PHA is any household member no longer lives in the unit.
- Revision 3 of Notice PIH 2023-27, dated April 16, 2026, requires PHAs to apply a 0% threshold and conduct interim reexaminations when a household adds or removes household members, including family members, foster adults, foster children, and live-in aides, regardless if the change in household composition results in a decrease, increase, or no change in the family's annual adjusted income.
  - The exception is if adding or removing household members would require an interim reexamination for an increase in annual adjusted income during the last three months of a family's recertification period, and the PHA has a written policy not to conduct interim reexaminations under these circumstances.
- When conducting an interim reexamination for an increase due to the addition or removal of a household member, the PHA must not consider increases in earned income when estimating or calculating whether the family's adjusted income has increased, unless the family has previously received an interim reduction during the same reexamination cycle.

1. 24 CFR 966.4(a)(1)(v)

Notes

- The lower threshold does not apply when the household does not add or remove a household member but experiences other kinds of changes to existing household member characteristics-this is reviewed as a normal increase or decrease.
- E.g., if the head of household turns 62 and the family becomes an elderly family, or an adult member who is not the head of household, cohead, or spouse enrolls in college and becomes a dependent.

CHANGES AFFECTING INCOME OR EXPENSES

- The family may request an interim determination of family income or composition because of any changes since the last determination.[1]
- Even though the family may request an interim at any time, the PHA may decline to conduct an interim reexamination of family income if the PHA estimates the family's adjusted income will decrease by an amount that is less than ten percent of the family's annual adjusted income or a lower threshold established by the PHA.
  - PHAs may set a lower amount than 10% in PHA policy (e.g., 5%)
  - The PHA may perform interims for decreases of any amount.
  - PHAs may not set a higher amount than 10% or establish a dollar figure threshold amount instead of a percentage threshold.
- Remember, the PHA must perform an interim for a decrease in adjusted income of any amount if the household adds or removes family members.

1. 24 CFR 960.257(b)

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Notes

- The PHA must conduct an interim reexamination of family income when the PHA becomes aware that the family's adjusted income has changed by an amount that will result in an increase of 10 percent or more in annual adjusted income, except:
  - PHAs may choose to have a written policy not to conduct an interim during the last three months of a certification period if a family reports8 an increase in income with three months of the next annual reexamination effective date (only acceptable for increases and changes in household composition); and
  - PHAs may not consider any increases in earned income when estimating or calculating whether the family's adjusted income has increases, unless the family has previously received an interim reduction during the same reexamination cycle.
- In other words, for changes in earned income:
  - If the family had an interim decrease since their last annual reexamination, the PHA has discretion whether or not to consider increases in earned income.
  - If the family did not have an interim decrease since their last annual reexamination, the PHA has no discretion and must not consider increases in earned income.
- For changes in unearned income, the PHA does not consider whether or not an interim reexamination was previously performed. The PHA only considers whether the 10% threshold has been met.
- When the family reports an increase in both earned and unearned income at the same time, the PHA must look at the earned and unearned income changes independently of each other to determine if an interim is performed. The PHA will only conduct an interim when the increases independently meet the 10% threshold and all other requirements for performing interims.

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Notes

- A series of smaller reported increases in adjusted income may cumulatively meet or exceed the 10% increase threshold, at which point the PHA must conduct an interim reexam in accordance with PHA policy.
- The PHA may choose not to conduct an interim reexamination in the last three months of a certification period if a family reports an increase in income within 3 months of the next annual reexamination effective date.
- For over-income families in the period of up to six months before their tenancy termination, the PHA must conduct an interim reexamination for the reasons discussed above.[1]
    - However, the resulting income determination will not make the family eligible to remain in the public housing program beyond the period before termination as defined by PHA policy.

1. 24 CFR 960.257(b)(4)

Notes

FAMILY REPORTING

- The PHA must adopt policies consistent with HUD regulations prescribing when and under what conditions the family must report a change in family income or composition.[1]
- The PHA must conduct any interim reexamination within a reasonable period of time after the family request or when the PHA becomes aware of an increase in family adjusted income.
  - What qualifies as a "reasonable time" may vary based on the amount of time it takes to verify information, but generally should not be longer than 30 days after changes in income are reported.
- PHA policy may require families to report only changes that the family estimates meet the threshold for an interim or the PHA may establish policies requiring that families report all changes in income and household composition, and the PHA will subsequently determine if the change requires an interim.
- When the PHA 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.

1. 24 CFR 960.257(b)(5)

Notes

EFFECTIVE DATE OF CHANGES

- If the family reports a change in family income or composition timely:[1]
  - For rent increases, the PHA must provide the family with 30 days advance notice. The rent increase is effective the first of the month after the end of that 30-day notice period.
  - Rent decreases are effective on the first month after the change.
- If the family failed to report a change in family income or composition timely:
  - For rent increases, the PHA must implement any resulting rent increases retroactively to the first of the month following the date of the change.
  - For rent decrease, the PHA must implement the change no later than the first rent period following completion of the interim reexamination or may apply the rent decrease 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 reexamination; or
    - The effective date of the family's most recent previous interim or annual reexamination (or initial examination if that was the family's last examination).
- The PHA's notification to the family must include the PHA's procedures for advising the family of the opportunity for a hearing.[2]

1. 24 CFR 960.257(b)
2. 24 CFR 966.4(c)(4)

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Notes

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Notes

Section 3 Transfers

- Changes in family composition may cause a family to be over-housed or under-housed.
- The policy for unit transfers is described in the PHA's Admissions and Continued Occupancy (ACO) Policy. The transfer policy defines when and under what circumstances a move is permitted.
- The PHA may have different policies for mandatory moves and discretionary or convenience moves.
  - Mandatory moves are those required by the PHA.
  - Discretionary moves are those requested by the family.
- Deconcentration of poverty and income-mixing goals apply to transfers as well as applicants.
- PHAs must establish a VAWA Emergency Transfer Plan (ETP). See Chapter 3 for further explanation.

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Notes

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UNIT 10 Terminations

Section 1 Overview of the Process

TERMINATION OF TENANCY

Family

- Family terminates by giving proper written notice or moving.

Housing Authority

- PHA terminates only for lease violation according to state law and HUD requirements, or
- Refuses to renew for noncompliance of residents with the community service requirement.
- Effective April 28, 2000, a lease may be terminated if a resident refuses to accept a revision to the lease if the PHA has provided at least 60 days' notice of the proposed revision and has allowed the resident a reasonable time to respond to the offer of lease revision.

GENERAL

- To be in compliance with the lease, a family may terminate tenancy by providing the notice specified in the lease.
  - However, in reality, a tenant can terminate for good reason, bad reason, or no reason at all, even though he or she may not be in compliance with the lease.
- The PHA may terminate tenancy only in compliance with the lease.
- The family is entitled to due process. State law may accord the family due process, but HUD must make the determination and notify the PHA in writing that they are a due process state.

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Notes

- In due process states, the terminations requiring a grievance procedure, or additional due process by the PHA, are limited.
- If HUD has made a determination that a state is not a due process state, all adverse actions are covered under the grievance policy and procedures adopted by the board of commissioners.
- Regardless of whether the state has been declared due process by HUD, HUD intends for PHAs to apply reasonable administrative remedies to attempt to prevent eviction as a means of limiting legal action and costs.
- Although there are some HUD requirements relating to termination of tenancy, state law also impacts the eviction process. Therefore, property managers must know state landlord/tenant law, the provisions of the lease, and the HUD requirements incorporated into the lease.

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Notes

Section 2 Move-out Inspection and Security Deposit Return

- A thorough move-out inspection should be conducted.
- Return of the security deposit is based on the move-out inspection.
  - Damages are determined by comparing the move-in inspection with the move-out inspection less normal wear.
  - Charges for damages are deducted from the security deposit.
- The unit must be prepared for the next occupant.
  - Items to be repaired, replaced, or cleaned are given to maintenance for completion.
- Turnover should be accomplished quickly, with as little make-ready time as possible.
- Vacant units result in lost income and increased possibility of vandalism.

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Notes

Section 3 Review of Evictions and Terminations

EVICTION REQUIREMENTS

- PHAs must develop dwelling lease requirements which permit the prompt eviction of tenants who are unable or unwilling to live up to the terms of the lease.
- Public housing dwelling leases are perpetual, except for noncompliance with community service, and only terminate when action is taken by the PHA, or the tenant may terminate the lease.

TERMINATION BY TENANT

- The lease must specify the length of notice required for the tenant to terminate the lease.
- A period anywhere between 14 and 60 days is typical.
- Notice to the PHA must be provided in accordance with the provisions of the lease.

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Notes

TERMINATION OF THE LEASE

- The lease must state the procedures to be followed in termination.

Grounds for PHA Termination

- The PHA may terminate a tenancy only for:
  - Serious or repeated violation of material terms of the lease, such as the following:
    - Failure to make payments due under the lease;
    - Failure to fulfill household obligations as described in the lease.
  - Having an income in excess of the over-income limit for the program for 24 consecutive months, as provided in 24 CFR 960.507
    - As discussed below, PHAs must indicate in policy whether they will terminate over-income families within six months or provide the option to pay the alternative rent.
    - If the PHA gives the family the option to pay the alternative rent and the family declines, the PHA must terminate tenancy no more than six months after the end of the 24 consecutive month grace period.
    - As a result, PHAs that choose to permit over-income families to remain in public housing units as non-public housing over-income (NPHOI) families must also have a termination policy in the event the family declines to execute a new lease under 24 CFR 960.509.
  - Other good cause, which includes but is not limited to, the following:
    - Criminal activity or alcohol abuse as described in the lease;
    - Discovery after admission of facts that made the tenant ineligible;
    - Discovery of material false statements or fraud by the tenant in connection with an application for assistance or with reexamination of income;

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Notes

- Failure of a family member to comply with community service requirement provisions – as grounds only for nonrenewal of the lease and termination of tenancy at the end of the 12-month lease term; and
- Failure to accept the PHA's offer of a lease revision to an existing lease:
  - That is on a form adopted by the PHA in accordance with HUD regulations;
  - With written notice of the offer of the revision at least 60 calendar days before the lease revision is scheduled to take effect; and
  - With the offer specifying a reasonable time limit within that period for acceptance by the family.

Over-Income Families

- As set forth in 24 CFR 960.507 and discussed briefly above, families participating in the public housing program must not have incomes that exceed the over-income limit for more than 24 consecutive months.
  - The over-income limit is determined by multiplying the applicable very low-income limit (adjusted for family size) by 2.4.
  - An over-income family is defined as a family whose income exceeds the over-income limit.
  - However, PHAs with fewer than 250 public housing units may continue to lease public housing units to over-income families in accordance with 24 CFR 960.503[1]

1. Notice PIH 2023-03

Notes

- As specified in PHA policy, once a family's income has exceeded the over-income limit for 24 consecutive months, the PHA must either:
  - Within 60 days of the PHA's final notification of the end of the 24-month grace period or the next lease renewal (whichever is sooner), execute a new lease that is consistent with 24 CFR 960.509 and charge the family the alter-native non-public housing rent, which is equal to the greater of the:
    - Applicable Fair Market Rent; or
    - Amount of monthly subsidy for the unit including amounts from the operating and capital fund; or
  - Terminate the family's tenancy within six months of the PHA's final notification of the end of the 24-month grace period.
    - While the period before termination may be up to six months, it may be less as defined in PHA policy.
- If the PHA determines during an annual or interim reexamination that the family's income exceeds the over-income limit, no later than 30 days after the reexamination, the PHA must make a note in the tenant file and provide written notice to the family stating that they have exceeded the over-income limit and that the family will be subject to the PHA's over-income policies if they continue to exceed the over-income limit for 24 consecutive months.
- The PHA must grant the family an opportunity for a hearing if the family disputes the over-income determination within a reasonable time after notification of the over-income determination.

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Notes

- The PHA must conduct an income reexamination 12 months after the initial over-income determination, unless the PHA determines that the family's income fell below the over-income limit since the initial over-income determination. If PHA determines that the family's income has exceeded the over-income limit for 12 consecutive months, the PHA must again notify the family in writing within 30 days of the determination that their income has exceeded the over-income limit for 12 months, and if it continues to do so for the next 12 consecutive months, the family will be subject to the PHA's over-income policies.
  - If applicable under PHA policy, the notice must include an estimate based on current data of the alternative non-public housing rent for the unit.
  - The PHA must conduct this reexamination within 12 months even if the family is paying flat rent and PHA policy only requires income redetermination every three years.
- The PHA must grant the family an opportunity for a hearing if the family disputes the over-income determination within a reasonable time after notification of the over-income determination.

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Notes

- The PHA must conduct an income reexamination 24 months after the initial over-income determination, unless the PHA determines that the family's income fell below the over-income limit since the second over-income determination. If PHA determines that the family's income has exceeded the over-income limit for 24 consecutive months, the PHA must again notify the family in writing within 30 days of the 24-month over-income determination. The notice must state:
  - That the family has exceeded the over-income limit for 24 consecutive months
  - That the PHA will either terminate the family's tenancy or charge the family the alternative non-public housing rent, as specified in PHA policy
    - If the PHA will terminate tenancy, then the notice must inform the family of the determination and state when tenancy is terminated (no more than six months from the date of the notification).
    - If the PHA will charge the alternative non-public housing rent, the notice must inform the family of this determination. The PHA must also present the family with a new lease that complies with the requirements of 23 CFR 960.509 and inform the family that the lease must be executed within no later than 60 days of the notice or at the next lease renewal, whichever is sooner.
- The PHA must grant the family an opportunity for a hearing if the family disputes the over-income determination within a reasonable time after notification of the over-income determination.
- The PHA must endure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, or other disabilities

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Notes

- An over-income family continues to be a public housing program participant until their tenancy is terminated or they execute a non-public housing lease, as applicable.
- If the PHA will terminate assistance, in the period prior to termination, the family remains a participant on the public housing lease (although the lease converts to a month-to-month term), the family must be given a choice between income-based and flat rent as applicable, and the PHA must conduct interim reexaminations of family income as otherwise required. However, the resulting income determination will not make the family eligible to remain on the program beyond the six-month termination period.
- If the PHA will charge the alternative non-public housing rent, the family becomes a non-public housing over income (NPHOI) family upon execution of the new lease. NPHOI families are precluded from participating in any programs that are only for public housing or low-income families, including the public housing resident council; are not subject to the Community Service and Self Sufficiency requirement (CSSR); are not subject to any type of recertification; are not given a choice between income-based and flat rent; and may not receive any federal assistance, including a utility allowance. However, the PHA may at its discretion offer grievance or hearing rights to the family in accordance with PHA policy.
- If at any time during the 24 consecutive-month period the PHA determines that the family's income has fallen below the over-income limit, the PHA's over-income policies no longer apply to the family. If the family subsequently experiences an increase in income over the over-income limit, the family is entitled to a new 24 consecutive month period.

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Notes

- The PHA must submit a report annually to HUD that specifies the number of families residing in public housing with incomes exceeding the over-income limit and the number of families on waiting lists for admission to public housing projects and provide any other information on over-income families HUD requests.
  - The requirement to submit waitlist data is effective as of January 1, 2024.
  - Data must be submitted using an electronic data collection to in the Operating Fund Web Portal.
  - HUD will make the new reporting module available beginning January 1 and all submissions will be due by March 31 of each year.
- See Notice PIH 2023-03 for further clarifications and guidance on the public housing over-income provisions.

Asset Limitation

- PHAs have discretion whether to apply the asset limitation to participants at annual and interim recertification. The PHA must adopt policies regarding the asset limitation and may adopt a written policy of:
  - Total non-enforcement
  - Enforcement
  - Limited non-enforcement
  - Exceptions for some families
- The PHA may choose not to enforce the asset limitation at all for any participants. If the PHA adopts a total non-enforcement policy, it must apply the same for all families.

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Notes

- If the PHA chooses to adopt a policy of enforcement, at every recertification, the PHA determines whether families are out of compliance with the asset limitation. If a family is out of compliance, the PHA must initiate termination of assistance within 6 months of the effective date of the reexamination. Families are not given an opportunity to cure noncompliance.
- If the PHA chooses to adopt a policy of limited enforcement, noncompliant families are given an option to cure. The PHA specifies a time period to cure in policy of up to but no longer than 6 months (except as a reasonable accommodation). If family remains out of compliance after cure period, the PHA must initiate termination of assistance within 6 months of the effective date of the reexamination.
- The PHA may also identify exception policies in the ACOP. 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 PHA may give families in an exception category longer to cure noncompliance (though not more than 6 months except as a reasonable accommodation) than those who are not in an exception category.
- See Notice PIH 2023-27 for more information on the asset limitation.

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Notes

Opportunity to Dispute

- If a PHA's decision to evict a tenant is based on criminal records or sex offender information, the PHA must notify the household of the proposed action and:
  - Supply the subject of the record and the tenant with a copy of the information.
  - Provide the opportunity for the subject and the tenant to dispute the accuracy and relevance of the information before the notice of termination is issued.

Lease Termination Notice[1]

- The PHA must give written notice of lease termination of:
  - At least 30 days before an eviction in the case of failure to pay rent;
    - The PHA must not[2]:
      - Provide tenants with a termination notice prior to the day after the rent is due
      - Proceed with filing an eviction if the tenant pays the alleged amount of rent owed within the 30-day notification period
    - In addition to normal requirements for notices of lease termination, all notices of lease termination for nonpayment of rent must also include the following:
      - Instructions on how the tenant can cure the violation, including:
      - Itemized amount separated by month of alleged rent owed by the tenant;
      - Any other arrearages
      - Date by which the tenant must pay before an eviction for can be filed

1. 24 CFR 966.4(l)(3)(i), 24 CFR 966.8; Notice PIH 2021-29
2. FR Notice 12/13/24

Notes

  - Information on how the tenant may recertify their income, request a minimum rent hardship exemption, or a request to switch from flat rent to income-based rent.
- A reasonable period of time considering the seriousness of the situation (but not to exceed 30 days):
  - If the health or safety of other tenants, PHA employees, or persons residing in the immediate vicinity of the premises is threatened; or
  - If any member of the household has engaged in any drug-related criminal activity or violent criminal activity; or
  - If any member of the household has been convicted of a felony.
- 30 days in any other case, except that if a state or local law allows a shorter notice period, the shorter notice period shall apply.

- PHAs are required to provide the Notice of Occupancy Rights (HUD-5380) and certification form (HUD-5382) with any notice of termination. See Chapter 3 for details.

- The notice of lease termination to the tenant shall:
  - State specific grounds for termination.
  - Inform the tenant of the tenant's right to make such reply as the tenant may wish; and
  - Inform the tenant of the right to examine PHA documents directly relevant to the termination or eviction.
  - When the PHA is required to offer the tenant the opportunity for a grievance hearing, the notice must also inform the tenant of the tenant's right to request a hearing in accordance with PHA's grievance procedure.
  - If the termination is due to the family being over-income for 24 consecutive months, inform the family that of this determination and state the period of time before tenancy termination.[1]

1. 24 CFR 960.507(c)(3)(ii)(A)

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Notes

- A notice to vacate which is required by state or local law may be combined with, or run concurrently with, a notice of lease termination by the PHA.

EVICTIONS

How Tenant is Evicted

- The PHA may evict the tenant only by bringing court action.

Definitions Related to Eviction

- HUD has added the following definitions in 24 CFR 5.100:
  - *Covered person* means a tenant, any member of the tenant's household, a guest, or another person under the tenant's control.
  - *Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).
  - *Guest*, for purposes of the final regulation on screening and eviction, means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.
    - HUD clarifies that the activity of a guest is actionable under this provision only if the activity takes place while the person is a guest; only in that case can the tenant's legal control extend to actions that occur off public housing premises.
  - *Household* means the family and PHA-approved live-in aide.
  - *Other person under the tenant's control*, for the purposes of the definition of "covered person" means that the person, although not staying as a guest (as defined herein) in the unit, is, or was at the time of the activity in question, on the premises (as "premises" is defined herein) because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.

Notes

- HUD defined "other person under the tenant's control" as a short-term invitee who is not "staying" in the unit, to distinguish the concept of "other person" from "guest."
- "Other person under the tenant's control" is only under the tenant's control during the period of the invitation and is on that premises because of that invitation.
- The tenant's legal control would be limited by the brevity of the visit and would not extend to activity off public housing premises.
- Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not "under the tenant's control."
- For example, a commercial visitor such as a delivery person only visiting the premises for the purpose of making a delivery and having no other contact with the unit or relationship with the tenant ordinarily would not be a person under the tenant's control.
  - So, the tenant would not be liable for any improper activity by the delivery person.
  - Of course, if it could be shown that if such a commercial visitor were engaging in prohibited activity and the tenant knew about it or was somehow involved in it, there would be no such exclusion.

- *Premises* means the building or complex or development in which the public housing dwelling unit is located, including common areas and grounds.
- *Violent criminal activity* means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

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Notes

MANDATORY TERMINATION BY THE PHA

- HUD requires the PHA to terminate the lease in certain circumstances. In other circumstances HUD requires the PHA to establish provisions for lease termination, but it is still a PHA option to determine, on a case-by-case basis, whether termination is warranted.
- For those tenant actions or failures to act where HUD requires termination, the PHA has no such option. The family's lease must be terminated for the following:

Failure to Provide Consent

- The PHA must terminate the lease if any family member fails to sign and submit any consent form s/he is required to sign for any reexamination.
- The HOTMA final rule provides PHAs with the discretion to determine whether applicants or recipients are ineligible for benefits if they, or their family members, refuse to provide or revoke the authorization to obtain financial records.[1]

Failure to Disclose or Document Social Security Numbers

- For all household members, except noncontending persons.
- Family members who were assisted as of January 31, 2010, and were at least 62 years old on that date, are exempt if they state that they do not have a Social Security number.

1. 24 CFR 5.232(c)

Notes

Failure to Accept the PHA's Offer of a Lease Revision

- The PHA must give the family written notice of the offer of a revision at least 60 calendar days before the revision is scheduled to take effect.
- The offer of a revision must specify a reasonable time limit (e.g., 10 calendar days) within the 60-day period for the family to sign.

Methamphetamine Conviction

- The PHA must immediately terminate the lease if the PHA determines that any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally assisted housing.

Lifetime Registered Sex Offenders

- PHAs must ensure that no lifetime registered sex offenders are admitted into federally assisted housing. However, should a PHA discover that a member of an assisted household was subject to a lifetime registration requirement at admission and was admitted after June 25, 2001, the PHA must immediately terminate assistance for the household member.[1]
  - The PHA must offer the family an opportunity to remove the sex offender.

1. Notice PIH 2012-28

Notes

Noncompliance with Community Service Requirements

- The PHA is prohibited from renewing the lease at the end of the 12-month lease term when the family fails to comply with the community service requirements.
- If, upon PHA notice of nonrenewal, the head of house and noncompliant adult refuse to enter into a work-out agreement, or if the family fails to remove the noncompliant adult, the PHA must begin the termination process.
- If, after signing the work-out agreement to comply in the upcoming 12 months, the noncompliant adult has not met the required number of hours, the PHA must begin the termination process.

Restriction on Assistance Based on Assets

- There are two circumstances under which a family is ineligible for the program based on asset ownership.[1]
  - First, assistance may not be provided to any family if the family's net assets exceed the HUD-determined threshold, adjusted annually for inflation. For 2027, this number is $109,797.
  - Second, the family has real property that is suitable for occupancy by the family as a residence and the family has:
    - A present ownership interest in the real property;
    - A legal right to reside in the real property; and
    - The effective legal authority to sell (based on state or local laws of the jurisdiction where the property is located) the real property.

1. 24 CFR 5.618

Notes

- This requirement creates an asset restriction for purposes of the eligibility of a family to receive assistance. However, HUD stated in Notice PIH 2023-27 that PHAs have discretion at reexamination in enforcing the asset limitation. HUD will issue additional guidance on this authority.

TERMINATION BY THE PHA – OTHER AUTHORIZED REASONS – MANDATORY LEASE PROVISIONS

- While the following provisions for lease termination must be in the lease agreement, HUD does not require PHAs to terminate for such violations in all cases. The PHA has the discretion to consider circumstances surrounding the violation, and the PHA may, as an alternative to termination, require the exclusion of the culpable household member.

Drug Crime On or Off the Premises

- Drug crime by the tenant, member of the tenant's household, or guest, on or off the premises, or any such activity engaged in on the premises by any other person under the tenant's control, is grounds for termination.

Illegal Use of a Drug

- The lease must provide that a PHA may evict a family when the PHA determines that a household member is illegally using a drug or that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

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Notes

Violating Smoke-Free Policies

- The lease must provide that a PHA may terminate tenancy for smoking of prohibited tobacco products in restricted areas or any other areas the PHA has designated as smoke-free by tenants, household members, guests, or other persons under the tenant's control.
- Under 24 CFR 966.4, Lease Requirements, the lease must include as a tenant obligation to assure that no tenant, member of the tenant's household, or guest engages in 24 CFR 966.4(f)12(i)(B) *Civil activity*, and for any units covered by 24 CFR part 965, subpart G, any smoking of prohibited tobacco products in restricted areas, as defined by 24 CFR 965.653(a), or in other outdoor areas that the PHA has designated as smoke-free.

Threat to Other Residents

- The lease must provide that any criminal activity by a covered person that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including PHA management staff residing on the premises) or by persons residing in the immediate vicinity of the premises is grounds for termination of tenancy.
- VAWA does not limit the PHA's authority to terminate the tenancy of any tenant if the PHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property.

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Notes

Alcohol Abuse

- PHAs must establish standards that allow termination of tenancy if the PHA determines that a household member has engaged in abuse or pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

Furnishing False or Misleading Information Concerning Illegal Drug Use or Alcohol Abuse or Rehabilitation

- PHAs must establish standards that allow termination of tenancy if the PHA determines that a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

Other Serious or Repeated Violations of Material Terms of the Lease – Mandatory Lease Provisions

- HUD regulations require certain tenant obligations to be incorporated into the lease. Violations of regulatory obligations are considered to be serious or repeated violations, and grounds for termination.
- Incidents of actual or threatened domestic violence, dating violence, sexual assault, stalking, or human trafficking may not be construed as a serious or repeated violation of the lease by the victim or threatened victim of such violence.

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Notes

OTHER GOOD CAUSE

- HUD authorizes PHAs to terminate the lease for reasons other than those described. These reasons are referred to as "other good cause." HUD regulations provide a few examples of other good cause, but do not limit the PHA to only those examples.
- Although not every objectionable behavior known to humankind can be spelled out, the more "teeth" PHA policies and leases have, the more straightforward the case will be in court.
- The following are examples of other good cause:
  - Fugitive felon or parole violator
  - Persons subject to non-lifetime sex offender registration requirement
  - Discovery after admission of facts that made the tenant ineligible
  - Discovery of materially false statements or fraud by the tenant in connection with an application for assistance or with reexamination of income
  - Failure to furnish such information and certifications regarding family composition and income as may be necessary for the PHA to make determinations with respect to rent, eligibility, and the appropriateness of dwelling size
  - Failure to transfer to an appropriate size dwelling unit based on family composition, upon appropriate notice by the PHA that such a dwelling unit is available
  - Failure to permit access to the unit by the PHA after proper advance notification
  - Failure to promptly inform the PHA of the birth, adoption, or court-awarded custody of a child
  - Failure to abide by the provisions of the PHA pet policy
  - If the family has breached the terms of a repayment agreement entered into with the PHA
  - If a household member has engaged in or threatened violent or abusive behavior toward PHA personnel.

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- Incidents of actual or threatened domestic violence, dating violence, sexual assault, stalking, or human trafficking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking.

Consideration of Circumstances

- In circumstances where the PHA is not mandated to evict, the PHA may consider all circumstances relevant to a particular case such as:
  - The seriousness of the offending action
  - The extent of participation by the leaseholder in the offending action
  - The effects that the eviction would have on family members not involved in the offending activity
  - The extent to which the leaseholder has shown personal responsibility and has taken all reasonable steps to prevent or mitigate the offending action
  - The useful purpose that would be served by terminating a tenancy on the basis of a crime committed by a guest or other person with whom the leaseholder had a minimal connection
- When determining whether to terminate assistance based on criminal activity in cases when there is a record of arrest, the PHA 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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Consideration of Rehabilitation

- In determining whether to terminate tenancy for abuse or a pattern of abuse of alcohol by a household member who is no longer engaging in such abuse or for illegal drug use or a pattern of illegal drug use by a household member who is no longer engaging in such use, the PHA may:
  - Consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully
- The PHA may require the tenant to submit evidence.

Exclusion of Culpable Household Member

- The PHA may require a tenant to exclude a household member in order to continue to reside in the assisted unit where that household member has participated in or been culpable for action or failure to act that warrants termination.

Notice to Post Office

- When a PHA evicts an individual or family for criminal activity, the PHA must notify the local post office serving the dwelling unit that the individual or family is no longer residing in the unit.

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Summary of Termination Actions

- Following is a chart that outlines required and optional lease provisions and PHA actions.

Termination Actions

	PHA ACTION			
	May Include in Lease	Must Include in Lease	May Evict	Must Evict
Alcohol abuse by household member that threatens the health, safety, or peaceful enjoyment of residents		X	X	
Illegal use of drugs by household member		X	X	
Pattern of drug use by household member that threatens or interferes with the health, safety, or peaceful enjoyment of residents		X	X	
Household member furnishing false or misleading information about illegal drug use, alcohol abuse, or rehab of illegal drug user or alcohol abuser		X	X	
Drug crime on or off premises by tenant, household member, or guest		X	X	
Drug crime on premises by other person under tenant's control		X	X	
Criminal activity by tenant, household member, guest, or other person under tenant's control that threatens the health, safety, or peaceful enjoyment of residents, PHA staff, or persons residing in immediate vicinity		X	X	
Conviction for manufacturing or producing methamphetamine on premises of federally assisted housing		X		X
Lifetime sex offender registrant admitted after June 25, 2001. However, the PHA must offer the family an opportunity to remove the sex offender.		X		X
Parole violation by tenant	X		X	
Tenant fleeing to avoid prosecution for a felony	X		X	

Notes

PHA Access to and Use of Criminal Records and Information

Evidence

- The PHA may evict by judicial action for criminal activity in accordance with the lease if the PHA determines that a covered person has engaged in the activity, *regardless of whether the covered person has been arrested or convicted of the activity.*
- The PHA is not required to satisfy the standard of proof used for a criminal conviction; however, it must prove the elements of crime by the standard of proof used in civil proceedings.
  - The standard of proof used in civil proceedings is generally "a preponderance of the evidence," not "beyond a reasonable doubt," as in criminal proceedings.
- As evidence, the PHA may use either of the following:
  - Information that it has obtained independently, including criminal records and first-hand accounts of staff, residents, community members, or law enforcement officers
  - Criminal conviction records that it has obtained from a law enforcement agency under the authority of 24 CFR 5.903
    - *Law enforcement agency* is defined as the National Crime Information Center (NCIC), police departments, and other law enforcement agencies that hold criminal conviction records.
    - To obtain access to records under 24 CFR 5.903, a PHA must require every applicant family to submit a consent form signed by each adult household member.
    - When a law enforcement agency receives a PHA request for criminal conviction records in accordance with 24 CFR 5.903, the agency must promptly release to the PHA a certified copy of any records within its possession or control, and it may charge the PHA a reasonable fee for the records.

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General Use of Criminal Records

- If a PHA seeks to terminate a tenancy for criminal activity as shown by a criminal record obtained independently or under the authority of 24 CFR 5.903, the PHA must:
  - Notify the household of the proposed action to be based on the information
  - Provide the subject of the record and the tenant with a copy of the criminal record before a PHA grievance hearing or court trial
  - Give the tenant an opportunity to dispute the accuracy and relevance of the record
- The PHA may not pass along to the tenant the costs of a criminal records check.

Use of Criminal Records Obtained Under the Authority of 24 CFR 5.903

Permitted Use and Disclosure

- PHAs are permitted to use criminal records obtained from a law enforcement agency under the authority of 24 CFR 5.903 only for applicant screening and lease enforcement and eviction.
- A PHA may disclose the criminal records that it receives from a law enforcement agency only to:
  - Officers or employees of the PHA
  - Authorized representatives of the PHA with a job-related need to access the information (for example, a PHA hearing officer conducting an administrative grievance hearing concerning a proposed eviction)
- After disclosure as necessary in connection with judicial eviction proceedings, a PHA is not responsible for controlling access to or knowledge of criminal records obtained from a law enforcement agency.

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Notes

Records Management

- PHAs must have a system of records management that ensures that criminal records received from a law enforcement agency are:
  - Maintained confidentially
  - Not misused or improperly disseminated
  - Destroyed once the purpose for which the records were requested has been accomplished and any litigation has been concluded or the period for filing a challenge has expired

Criminal Penalties for Improper Release of Information

- A misdemeanor conviction and a fine of not more than $5000 may be imposed on any person who, under the authority of 24 CFR 5.603, knowingly and willfully:
  - Requests or obtains information from a law enforcement agency under false pretenses
  - Discloses any such information to any individual not entitled under any law to receive the information

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Notes

Civil Liability for Improper Release of Information

- The PHA may be held liable to applicants or tenants affected by:
  - Negligent or knowing disclosure of criminal records information obtained by an officer, employee, or authorized representative if the disclosure is not authorized by 24 CFR 5.903
  - Any other negligent or knowing action inconsistent with 24 CFR 5.903
    - Applicants or tenants who are the victims of improper release of information by a PHA may seek relief by bringing a civil action against the PHA for damages and other appropriate relief, such as reasonable attorney's fees and other litigation costs.

ACCOMMODATION OF PERSONS WITH DISABILITIES

- For all aspects of the lease and grievance procedures, a person with disabilities must be provided reasonable accommodation to the extent necessary to provide the person with disabilities with an opportunity to use and occupy the dwelling unit equal to a person without disabilities.
- The PHA must provide a notice to each tenant that the tenant may, at any time during the tenancy, request reasonable accommodation of a disability of a household member, including reasonable accommodation so that the tenant can meet lease requirements or other requirements of tenancy.

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Section 4 Review of Grievance Procedures

DEFINITIONS

- **Grievance** – any dispute a tenant may have with respect to PHA action or failure to act in accordance with the individual tenant's lease or PHA regulations which adversely affect the individual tenant's rights, duties, welfare, or status.
- **Complainant** – any tenant whose grievance is presented to the PHA or at the property management office.
- **Elements of Due Process**– see pages 10-1 and 10-35.
- **Hearing Officer** – an impartial person or persons selected by the PHA, other than the person who made or approved the decision under review, or a subordinate of that person. Such individual or individuals do not need legal training. PHAs must describe their policies for selection of a hearing officer in their lease forms.
- **Tenant** – adult person (or persons) other than live-in aide:
  - Who resides in the unit and who executed the lease with the PHA as lessee of the dwelling unit or, if no such person now resides in the unit
  - Who resides in the unit and who is the remaining head of household of the tenant family residing in the dwelling unit
- **Resident Organization** – includes a Resident Management Corporation.

Notes

GENERAL REQUIREMENTS

- The lease must provide that all disputes shall be resolved in accordance with the PHA's grievance procedures concerning obligations of the tenant and obligations of the PHA
- Grievance procedures are established to assure that PHA tenants are afforded an opportunity for a hearing if the tenant disputes, within a reasonable time, any PHA actions or failure to act involving:
  - Tenant's lease
  - PHA regulations which adversely affect the individual tenant's rights, duties, welfare, or status
- Grievance procedures are not applicable to:
  - Disputes with non-tenants
  - Disputes between tenants
  - Disputes between a live-in aide and the PHA
  - Disputes not involving the PHA
  - Certain disputes in due process states
  - Class grievances
- The PHA must adopt a grievance procedure allowing opportunity for a hearing on grievances in accordance with the regulations.
- Grievance procedures must be either included in the lease or incorporated by reference.
- The PHA must provide a 30-day notice to tenants and resident organizations for comment when procedures are changed and must furnish a copy of the grievance procedures to each tenant and to resident organizations.
- To amend their grievance procedures, PHAs must give tenants notice and opportunity to comment, according to the provisions in 24 CFR 966.52(c), and consider written comments before changing the procedure.

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Notes

GRIEVANCE PROCEDURES

- The PHA must meet regulatory due process requirements, as well as any additional requirements under federal, state, or local law.

Due Process Determination by HUD

- "Due process determination" is a determination by HUD that the law of the jurisdiction requires that the tenant must be given the opportunity for a hearing in court which provides the basic elements of due process before eviction.
- In states where HUD has determined that a court provides the elements of due process, PHAs may exclude from the grievance procedure any grievance concerning a termination of tenancy or eviction that involves:
  - *Any criminal activity* that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of the PHA; or
  - Any violent or drug-related criminal activity on or off such premises
  - Any criminal activity that resulted in felony conviction of a household member
- If HUD has issued a due process determination, the PHA may evict the occupants of the dwelling unit through judicial eviction procedures.
  - In this case, the PHA is not required to provide the opportunity for a hearing under the PHA's grievance procedure.

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Notes

Grievance Hearing Needed

- Tenancy does not terminate if the PHA is required to provide a hearing under the grievance procedure, until:
  - The time to request a grievance hearing has expired, and
  - The grievance process is completed if a hearing is requested.
- Even if notice to vacate under state law has expired, federal requirements must be met.

Grievance Hearing Bypassed

- Notice of lease termination must:
  - State that the tenant is not entitled to a grievance hearing on the termination.
  - Specify judicial eviction procedure to be used by the PHA for eviction.
  - State that HUD has determined that the eviction procedure provides opportunity for a hearing in court that contains basic elements of due process as defined in HUD regulations.
  - State whether the eviction is for:
    - Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of the PHA;
    - Any drug-related criminal activity *on or off* such premises; or
    - Any criminal activity that resulted in a felony conviction of a household member.

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Notes

Informal Settlement of Grievances

- The informal settlement is the first step in the grievance process. In many PHAs, the property manager conducts the informal settlement.
- The objective is to discuss informally so they can be settled without a grievance hearing.
- The PHA must prepare and send to the tenant a summary of the discussion within a reasonable time.
- The summary must specify:
  - Names of participants
  - Dates of meeting
  - Nature of the proposed disposition of the complaint
  - Reasons for the decision
  - Procedures for a hearing if the tenant is not satisfied

Scheduling of Hearings

- A hearing is promptly scheduled for a time and place reasonably convenient to both parties.
- Written notice is provided to the tenant and PHA official.
- Grievance hearings may be conducted in person or remotely. Should the hearing be conducted remotely, the PHA must meet the requirements for conducting remote grievance hearings specified in Notice PIH 2020-32.

Statutory Due Process Rights

- An adult tenant has the right to file a grievance.
- The tenant has the right to the opportunity to examine any PHA documents directly relevant to the hearing before the hearing, including records and regulations relevant to the hearing.
- The tenant has the right to copy any such documents at the tenant's expense.

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- The PHA may not rely on documents at the grievance hearing if the documents are not made available for examination upon request.
- The tenant has the right to be represented by counsel or other person chosen as the tenant's representative and have them make statements for them.
- The tenant has the right to a private hearing unless the tenant requests a public hearing.
- The tenant has the right to present evidence and arguments in support of the tenant's complaint.
- The tenant has the right to controvert evidence relied on by the PHA or property management.
- The tenant has the right to confront and cross-examine all witnesses upon whose testimony or information the PHA or property management relies.
- The live-in aide has no right to a hearing (not a tenant).
- A decision based solely on the facts presented at the hearing.
- The hearing may be postponed for no more than five business days if the tenant or PHA does not appear at the scheduled hearing.The hearing officer may decide that the party has waived their right to a hearing.
- The tenant's right to appropriate judicial proceedings is not waived (whatever the outcome of the hearing).
- The PHA and tenant must be notified of the decision in writing.
- The tenant may arrange for a transcript of the hearing:
    - In advance and at the expense of the party making arrangement, and any interested party may purchase a copy.

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Notes

Procedures Governing the Hearing

- HUD's streamlining final rule, published March 8, 2016, made major changes to the regulations governing grievances. Many provisions which were covered by regulation are now controlled by PHA policy. These include requirements for:
  - Requesting a hearing
  - Selecting a hearing officer
  - Failure to request a hearing
  - Conducting the hearing
- Generally the party seeking the hearing has the burden of proof. The burden of proof in any civil matter, including hearings, is preponderance of the evidence.
- The hearing is conducted by a hearing officer in the following manner:
  - **Informal** - evidence does not fall under admissibility rules of evidence applicable to court proceedings.
  - **Orderly** - all participants and spectators must demonstrate orderly conduct or be dismissed or receive an adverse decision.

Decisions of the Hearing Officer(s)

- Within a reasonable time following the hearing, the hearing officer must give the tenant and PHA a written decision, stating the reasons for the decision.
- The PHA keeps a copy in the tenant file.
- The PHA must also maintain a log of all hearing officer decisions and must make the log available to hearing officers, prospective complainants, and representatives of the prospective complainants.

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- The decision is binding on the PHA unless, within a reasonable time, the PHA board of commissioners determine (and notify the tenant) that:
  - The grievance does not concern a PHA action or failure to act regarding the lease or regulations which adversely affects the tenant's rights, or
  - The decision is contrary to applicable federal/state/local law, HUD regulations, or the ACC.
- Decisions favorable to the PHA do not affect the tenant's other judicial rights.

Notes

Section 5 Practical Management Considerations for Evictions

- The lease between the PHA and tenant:
  - Sets requirements resulting from law, regulations, and lawsuits.
  - Stipulates conditions for the "termination of tenancy" or "eviction"

EVICTION IS A LEGAL PROCESS

- Responsibility for compliance with federal, state, and local laws generally falls on the manager.
- Even when an attorney files and presents the case, the manager must have a working knowledge of the parameters under which the program operates.
- HUD regulations generally do not supersede state law.
- The public housing manager is responsible for ensuring that all lease provisions are followed. When violated, the act or failure to act that necessitates eviction must be:
  - Well-documented and strong enough to support the PHA's action or inaction.
- Many eviction cases are lost because management did not do the right things at the right times (and generally not because the PHA was not "right.")

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Notes

Important Points to Remember

- Recognize the different types of evictions and the notification required of each.

Type	Notification Required
Failure to pay rent	At least 30 days
When health or safety of PHA employees or other residents is concerned	Based on seriousness of situation (should never exceed 30 days)
Any other cause	30 days (or shorter)

- When a tenant is to be terminated for a material non-compliance with the lease, the burden of proof is on the manager.
- When a tenant is to be terminated for non-payment of rent, the tenant generally must prove that rent was paid, or that no rent was due under the lease.
- Whatever the reason(s) for eviction, the manager should follow and document the critical steps of the process.
- Documentation to substantiate the PHA's case should include:
  - Copies of the lease and any attachments.
  - Application, releases, and certifications.
  - The resident's ledger card (or equivalent) or payment history.
  - All receipts, late notices and proofs of delivery (as applicable).
  - Correspondence between the tenant and management.
  - A tenant history sheet with conversations documented as to the subject matter, date, and parties involved.
  - Work orders and unit inspections.
  - Summaries of informal discussions or grievance hearings, including any agreements that were reached.

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- Notice of Termination (also called Demand to Pay or Quit in cases of nonpayment of rent) must be in compliance with the lease and applicable provisions of state law.
- A hearing must be offered the tenant.
  - Provide an opportunity to reach a satisfactory agreement prior to the need for a hearing.

Court Presentations

- May be made by an attorney for the PHA or may be part of the manager's job responsibilities.
- The resident will be given an opportunity to respond.
- Examination of each side is permitted.
- The judge may ask questions.
- When the manager must appear in court in connection with an eviction case:
  - Maintain a professional appearance and bearing throughout the hearing.
  - Do not make emotional statements.
  - Do not distort the facts.
  - Present the case completely and in a business-like manner.
  - Be prepared to answer questions.
  - Do not give opinions unless asked.
  - Do not mention other facts which do not pertain to the case.
- Judgments are generally made at the time of the hearing.
  - If one party fails to appear, judgment will normally be rendered in favor of the party who does appear.
  - If all parties appear, judgment will be made based on facts presented.
  - Any party receiving an unfavorable ruling may appeal the decision.

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- If the judgment is in favor of the PHA, it will state compensation (such as rent, legal fees, court costs, damages, etc.) and when possession must be delivered by the defendant.
- However, the judgment merely awards delivery and payment; it does not guarantee either.

UNIT 11 Resident Relations and Self-Sufficiency

Section 1 Resident Participation

- Resident participation is critically important since the implementation of welfare reform legislation. Achieving economic self-sufficiency is essential for public housing families and for housing authorities since rent is directly affected by tenant income.
- Public housing managers must recognize the importance of resident involvement in creating a positive living environment. Effective operation of public housing is evolving into a partnership between management professionals and residents.
- HUD encourages PHAs and residents to work together to foster constructive relationships, particularly through tenant organizations and resident councils.
- The Reform Act added to the old PHAS an evaluation of the extent to which the PHA:
  - Coordinates, promotes, or provides effective programs and activities to promote the economic self-sufficiency of residents
  - Provides public housing residents with opportunities for involvement in the administration of public housing
  - Implements effective screening and eviction policies and other anticrime strategies, and coordinates with local government officials and residents in the development on implementation of such strategies.
  - These components are not part of the Interim PHAS but most likely will be scored when a final PHAS rule is published.

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Notes

RESIDENT COUNCIL

- An incorporated or unincorporated non-profit organization which:
  - Is representative of the tenants in the development(s) it represents.
  - Adopts written procedures for the election of specific officers at least once every three years.
  - Has a democratically elected governing board which is representative of the development(s) which it represents.
  - Non-public housing over-income (NPHOI) families, as defined in 24 CFR 960.102(b), are not eligible to participate in resident councils.

RESIDENT ADVISORY BOARD (RAB)

- The Reform Act established PHA's requirement, under 24 CFR 903.13, to establish a Resident Advisory Board (RAB). The RAB is a board, or boards, who adequately reflect and represent the residents of the PHA.
  - The role of the RAB is to make recommendations regarding the PHA plan and any significant amendment or modification to the PHA plan.
- Each PHA must establish one or more Resident Advisory Boards.
  - If a jurisdiction-wide resident council exists, the PHA must appoint the jurisdiction-wide resident council or the council's representatives as the Resident Advisory Board.
  - If a jurisdiction-wide resident council doesn't exist but resident councils exist, the PHA must appoint these resident councils or their representatives to serve on one or more Resident Advisory Boards.
  - The PHA may require that the resident councils choose a limited number of representatives.

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- Where the PHA has a tenant-based assistance program of significant size (20 percent or more of assisted households), the PHA must assure that the Resident Advisory Board (or Boards) has reasonable representation of families receiving tenant-based assistance and that a reasonable process is undertaken to choose this representation.
- If resident councils do not exist, the PHA must appoint Resident Advisory Boards or Board members as needed.

RESIDENT PARTICIPATION GUIDELINES

- Residents and the PHA should identify appropriate roles and responsibilities for creating and sustaining resident participation.
- Residents should have primary responsibility for determining their goals, organizational structure, and method of operating.
- PHAs should consider any reasonable request by residents to participate in management.
- PHAs should recognize resident councils as the official organization representing the tenants in meetings with the PHA, if they meet the requirements of a resident council.
- The PHA should enter into a memorandum of understanding (MOU) with the formally recognized tenant organization or resident council. This memorandum will clarify the elements of the relationship between the PHA and the tenant organization or resident council.
- PHAs may provide reasonable in-kind and cash assistance for tenant participation activities.
- Eligible noncash contributions may include technical assistance, meeting space, office furniture, and duplicating services.

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- Cash contributions to a tenant organization may be made only under a written agreement with the PHA.

RESIDENT PARTICIPATION IN MANAGEMENT

- Resident participation in the management of public housing is described in 24 CFR, Part 903 (Resident Advisory Boards) and Part 964.
  - It is a means of providing residents with information so they can offer comments and recommendations about PHA plans and decisions, on an advisory basis.
- Resident councils are a valuable resource to housing management because they:
  - Provide information on important aspects of community life which might not ordinarily be available to the manager.
  - Offer suggestions for improvement of operations and facilities.
  - Foster positive relationships between residents and management.
  - Form creative programs to improve the quality of life, such as neighborhood watch and other crime prevention programs.
- A resident may serve as a commissioner.

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Notes

Section 2 Family Self Sufficiency (FSS)

OVERVIEW

- Family Self-Sufficiency is a federally mandated program intended to promote economic independence in residents of public and assisted housing.
- The overriding theme of FSS is to empower people to take control of their lives by becoming independent, productive members of their communities.
- All PHAs receiving funds in Fiscal Year 93 and subsequent years for new Section 8 tenant-based programs, and all PHAs/IHAs receiving funds for new Public/Indian Housing units were required to operate a Family Self Sufficiency program of a specific mandatory minimum program size, unless exempted by HUD.
- Each PHA that was still required to administer an FSS program on May 24, 2018, must continue to operate such a program for, at a minimum, the total number of families the PHA was required to serve as of that date, subject only to availability of sufficient appropriations.[1]
- PHAs reduce their FSS mandatory minimum program size by one slot for each FSS family from any rental assistance program the PHA administers who graduates from the FSS program by fulfilling their obligations under the Contract of Participation.
- PHAs have the option to operate programs larger than the minimum FSS program size.
- PHAs may design local programs.

1. 24 CFR 984.105

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Notes

PHA and Family FSS Obligations

- The designated head of each participating family must sign a Contract of Participation.
- The contract defines the terms and provisions for participation. It also contains the individual training and services plan, which outlines the goals of the family and the services which are to be provided.
- The goals and services are individually designed in conjunction with the family in order to meet the specific needs of the family.
- The initial term of the contract is five years, but it may be extended up to an additional two years for good cause.
- The contract may be modified as family circumstances change, and if the modification is mutually agreed upon by the PHA and the family.
- If the family does not comply with the terms of the contract, the PHA may withhold or terminate supportive services or terminate the contract of participation.

The FSS Escrow Account

- During the term of the Contract of Participation, the PHA will establish an interest-bearing escrow account. This account will be established when the family has an increase in earned income after the effective date of the contract.
- The PHA will normally credit the escrow account for the rent increase which resulted from an increase in earned income.
- The family may withdraw its portion of the escrow account when it has completed the contract and no member of the family is a recipient of welfare assistance.

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Notes

- The PHA may disburse a portion of the escrow to the family during the term of the contract after the completion of certain interim goals if the family needs the funds for purposes consistent with or in support of the contract, such as:[1]
  - Completion of higher education
  - Job training
  - To meet start-up expenses involved in the creation of a small business
- If the family leaves the FSS program before the contract is complete, violates the contract terms, or is still receiving welfare assistance at the end of the contract period, the family's portion of the escrow is forfeited and will revert to the PHA. Forfeited FSS escrow funds may only be used to benefit FSS participants, as specified in 24 CFR 984.305(f)(2).

DEFINITION OF WELFARE ASSISTANCE

- *Welfare assistance*, for the purposes of FSS only, means income assistance from federal, state, or local welfare programs and includes only cash maintenance payments designed to meet a family's ongoing basic needs.
- Welfare assistance does not include:
  - Nonrecurring short term benefits designed to address individual crisis situations that are not designed to deal with recurrent ongoing needs and will not extend beyond four months
  - Work subsidies
  - Supportive services such as child care and transportation provided to families who are employed
  - Refundable earned income tax credits
  - Contributions to and distributions from Individual Development Accounts under TANF

1. 24 CFR 984.305(c)(2)(ii)

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Notes

- Services such as counseling, case management, peer support, child care information and referral, financial empowerment, transitional services, job retention, job advancement, and other employment-related services that to not provide basic income support
- Amounts solely directed to meeting housing expenses
- Amounts for health care
- Supplemental Nutrition Assistance Program (SNAP), and emergency rental and utilities assistance
- SSI, SSDI, and Social Security
- Child-only or non-needy TANF grants made to or on behalf of a dependent child solely on the basis of the child's need and not the need of the child's current non-parental caretaker

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Notes

Section 3 Community Service

BACKGROUND

- Community service is the performance of voluntary work that is a public benefit, and that serves to improve quality of life, enhance resident self-sufficiency, or increase resident self-responsibility.

DESIGN OF COMMUNITY SERVICE

- PHAs should give residents the greatest choice possible. Residents are going to be most successful when what they do reflects their skills and what they like.
- The PHA has many options in the design and implementation of community service.
  - The PHA could design and administer the program, with input and cooperation from community-based agencies.
  - The PHA could design and administer the program in collaboration with other agencies.
    - The PHA could contract out various aspects of the program, i.e., placement, monitoring, and/or case management.
- The PHA could contract out the entire design and administration of the community service program. However, the PHA must enforce the lease, including provisions for compliance with community service.

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Notes

Community Service Activities

- Community service activities could include:
  - Improving the physical environment of the resident's development
  - Volunteer work in a local school, hospital, child care center, homeless shelter, or other community organization
  - Working with youth organizations
  - Helping neighborhood groups on special projects
  - Participation in programs that develop and strengthen self-reliance such as:
    - Drug and alcohol abuse counseling and treatment
    - Household budgeting and credit counseling
    - English proficiency

PHA Responsibilities

- PHAs need to develop policies and procedures for determining and documenting residents' exemptions.
  - For example, PHAs should determine reasonable guidelines such as hours required for "work activity."
- PHA policy must describe how the PHA will determine which adult residents are subject to or exempt from the community service requirement and the process for determining any changes to exempt or nonexempt status.
  - Violation of the service requirement is grounds for non-renewal of the lease at the end of the 12-month lease term but not for termination of tenancy during the course of the 12-month lease term.

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Notice PIH 2015-12

- Notice PIH 2015-12 states that PHAs with a ROSS program, ROSS Service Coordinators, or FSS program may coordinate Individual Training and Service Plans (ITSPs) with the community service and self-sufficiency requirement (CSSR).
  - The ITSP is a tool to plan, set goals, and track movement toward self-sufficiency through education, work readiness, and other supportive services, including CSSR. Further details on coordinating ITSPs with CSSR can be found in Notice PIH 2015-12.
- In addition, regular meetings with ROSS or FSS coordinators may satisfy CSSR.
  - The coordinator would verify community service hours through their monthly logs.
- PHAs are also encouraged to create agreements with local organizations, including faith-based and community organizations, to assist with the CSSR.
  - Such agreements would allow local organizations to advertise their programs, assist with transportation, childcare, or other barriers to CSSR attainment.

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Section 4 Economic Self-Sufficiency Strategies for PHAs

BACKGROUND

- As public housing families face lifetime welfare time limits, PHAs will carry the financial burden
- It is in PHAs' financial interest to promote strategies which help public housing families move from welfare to work, stabilize in employment, and gain knowledge, skills, and abilities to obtain living-wage employment.
- PHAs are vital community partners in the welfare-to-work movement.

STRATEGIES FOR SELF-SUFFICIENCY

Collaborate with Community Partners

- Public housing developments are ideal for partnership with community-based agencies because, by definition, public housing residents have more stable housing than other low-income families
- Public housing is more conducive to bringing in partnerships and services than Section 8 because public housing has developments with community rooms, and families tend not to move as often as Section 8 participants.

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- Many community agencies are mandated to serve low-income populations but are not sure how or where to find low-income families. Some possibilities for important and innovative partnerships and collaborations are:
  - Local welfare agencies
  - Universities
  - Colleges
  - Adult education centers
  - Career counseling centers
  - Job training agencies
  - Mental health counseling agencies
  - Health programs
  - Consumer and budget counseling centers
  - Nutrition programs
  - Parenting programs
  - After school programs
  - Recreational programs
  - Cultural programs
  - Crime prevention programs
  - Gang prevention programs
  - Volunteer programs

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Economic Self-Sufficiency Grants

- HUD offers a number of grants designed to help public housing residents and Section 8 participants move from welfare to work.
  - HUD notifies PHAs of available grant funds by publishing Notices of Funding Availability (NOFAs) in the *Federal Register.*
  - Most grants are competitive. The PHA could consider forming a consortium with other PHAs to apply for grant funds. HUD grants require collaboration and partnership with other community agencies.
  - The NOFA specifies eligibility, program requirements, what funds must be used for, the timeline of the grant, etc.
- In addition to HUD grants, there are many private foundation grants.
  - Grants vary from small ($500) to very large.
  - Information about available grants and foundations may be found at the local library or on the Internet.

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Section 3 Hiring: The PHA as Training and Hiring Ground

- Section 3 is a requirement that for projects above a certain monetary threshold, the PHA must make its best efforts to train and hire a portion of Section 3 workers or targeted Section 3 workers.
  - A Section 3 worker could be a person whose income for the previous calendar year is under the HUD-established income limit, a person who is employed by a Section 3 business concern, or a YouthBuild participant. A *targeted Section 3 worker* could be a worker employed by a Section 3 business concern, a public housing or Section 8 resident, a resident of other public housing developments or Section 8-assisted housing managed by the PHA providing the assistance, or a YouthBuild participant.
  - HUD establishes benchmarks specifying the ratios of the number of labor hours worked required for Section 3 workers and targeted Section 3 workers, respectively.
- Examples: Landscape contractors, temporary office help contractors, make-ready contractors.
- The PHA can target entry-level positions for Section 3 workers and targeted Section 3 workers.
  - The PHA could set up competency-based training and hire successful graduates.

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Understand and Address Barriers to Self-Sufficiency

- For low-income families, the following have been shown to be chronic barriers to achieving self-sufficiency. Helping families with supportive services in these areas can greatly enhance families' ability to get and keep jobs:
  - Child care
  - Transportation
  - Remedial education
  - Education for completion of high school
  - English as a second language
  - Job training preparation, placement, and retention services
  - Treatment and counseling for substance and alcohol abuse
  - Training in parenting skills, financial management, and household management
  - Counseling for home ownership opportunities
- The PHA can partner with community agencies to help target these supportive services to public housing residents.
- Many of these community agencies provide in-kind contributions (no charge) of people, services, space, or materials.
- A memorandum of understanding (MOU) should be developed to clearly specify the PHA's contributions (physical space, outreach to public housing families) and the contributions of the community agency (for example, the adult education center will conduct an English as a Second Language class on Tuesday and Thursday evenings at the community room in a particular public housing development.)

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Communication to Residents

- The extent to which the PHA communicates to residents about administration and management of public housing, events, and opportunities can greatly affect residents' sense of public housing as a place of opportunity rather than "housing of last resort".
  - For example, the PHA could print a newsletter monthly or quarterly letting residents know about self-sufficiency programs and opportunities at the PHA and in the larger community. Publishing residents' stories (with their permission, of course) in a newsletter can inspire and motivate other residents.
  - Holding resident events such as graduation ceremonies, picnics, and resource fairs brings residents together with management and each other and enables residents to meet others who have successfully moved from welfare to work.

Skilled Trades for Women

- Skilled trades often offer shorter training periods than traditional roles, or college education.
- Skilled trades are usually much better paid than traditional roles for women such as child care provider, nurses aide, teaching aide, etc.
- Skilled trades often offer paid training or paid apprenticeships.
- Skilled trades usually provide health and other benefits.
- "Nontraditional occupations for women" (where 25% or less of the jobs are filled by females) often are actively seeking women to train and hire.

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- The PHA should find out what apprenticeships, trainings, and emerging opportunities are offered in their community, and inform residents.
    - Examples of skilled trades are aviation mechanic technician, electronics assembler, trolley mechanic apprentice, printer, plumber, cable television installer.

Entrepreneurship

- Some public housing residents might be unable to work outside of the home full-time.
    - For example, the mother with a young baby or with a disabled family member may find it difficult to keep outside employment.
- Some people come from countries or cultures where micro-business is how the economy works.
    - Sometimes people who don't speak English yet find a market niche within their refugee community, for example.
- The PHA needs to recognize that cottage industries, or tiny businesses, may be a viable way for public housing families to augment their income package.
- With technical advice from the Small Business Center or other community agency, some residents will be able to become self-sufficient through their businesses.

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Individual Savings Accounts (ISAs)

- The ability to save money is a tremendous economic stabilizer for families.
- The PHA may establish and maintain individual savings accounts for families who pay income-based rents.
- Where the PHA offers ISAs, a family may choose an ISA instead of being given the 12-month earned income disallowance/phasing-in of rent increase.

Cultural Sensitivity

- Ability to work multi-culturally with other housing professionals and residents is essential.
  - Respecting and celebrating differences in culture, custom, and tradition while understanding our shared humanity at the deepest level
  - Appreciating what it feels like to be part of a group not considered part of the “dominant” or “mainstream” culture

Deconcentration of Poverty and Income-Mixing

- Bringing higher income families into lower income developments, and vice versa, helps bring a culture of work and economic striving to the public housing environment.
- Seeing a neighbor succeed is a powerful example.

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Notes

Mandatory Earned Income Disallowance

- Provides an incentive to work.
- Positions the PHA as a partner in the family's self-sufficiency efforts.

Board of Commissioners Members Who Live in Public Housing

- A resident is an effective liaison to the PHA and the board.
- Residents sometimes feel most comfortable talking to a fellow resident.
- It's important for the PHA to work closely with board members, including a board member who lives in public housing, and provide necessary training on housing programs and group decision-making.

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Section 5 Managing Housing for the Elderly

- Managers who manage properties which house the elderly should be aware of the unique needs and problems of the elderly.
  - Psychological, physical, social, and economic characteristics.
  - The need to live as independently as possible while dealing with the aging process.
  - The effects on the quality of life due to loss of hearing, mobility, or sight.
- Up to 50% of persons over 65 suffer from mild forms of depression, memory impairment, pre-senile or senile dementia, or paranoia reactions.
- Suggestions for dealing with mixed elderly populations are:
  - Implement educational programs on aging, mental and physical disabilities.
  - Encourage residents to interact by providing social functions with universal appeal. When possible, encourage elderly residents to select and plan the types of activities which they prefer.
  - Assist residents in securing social service assistance through referrals.
  - Provide space for local mental health personnel to utilize when visiting residents.
  - Seek assistance from social workers who focus on interpersonal relationships.
  - Increase security.
  - Enforce tenant selection criteria uniformly.
  - Recruit and utilize volunteers to work with disabled elderly.

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UNIT 12 Understanding and Managing the Budget

INTRODUCTION

- The property manager is a business manager. Your development is a business.
- You must treat the financial aspects of your development very seriously. The HUD model for public housing is to treat each property or small group of properties as a separate asset, to be managed separately with its own accounting, budget, and management team.
- Although specific responsibilities of property managers may vary, the first priority of the manager is to understand all the aspects of good management, including good financial management.

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Section 1 The Development's Budget

INTRODUCTION

- Why is the budget so important to the management of the development? Because the goal for any business, including a public housing development, is that the business must at a minimum generate sufficient revenue to meet its operating expenses.
- An operating budget is not only a guideline for you as the housing manager regarding the development's anticipated performance over a specific period of time, but it also provides an income and expense version of goals set by the board as it pertains to the operation of their housing stock.
- Simply put, the budget is the plan for the development, expressed in financial terms. It's the roadmap for you as the property manager. Following are all the reasons why we budget:
  - Budgets provide an itemized projection of income and expenses over a specific period of time;
  - Budgets guide staff in operating a development on a day-to-day basis;
  - Budgets are a plan to ensure a development's financial health;
  - Budget performance creates a benchmark for similar kinds of properties; and
  - Budgets are an expression of how financial resources will be allocated.

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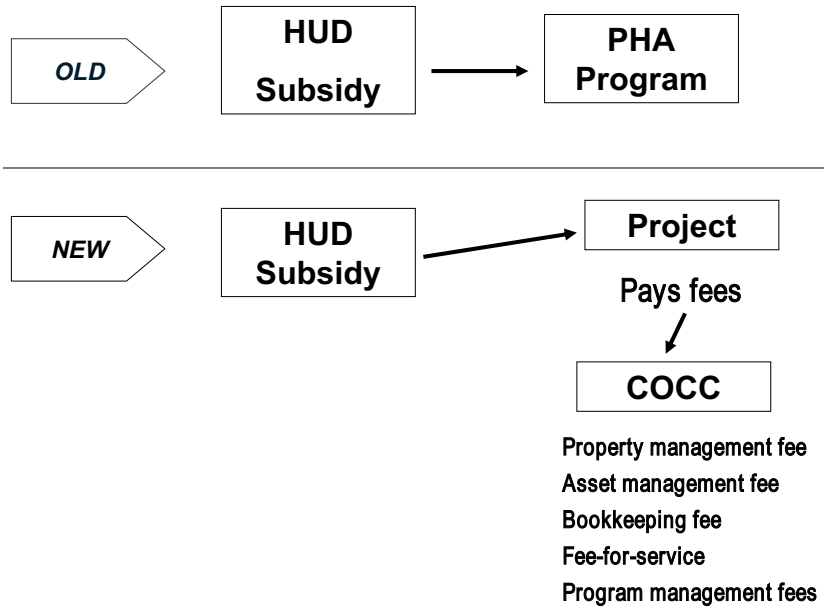
BACKGROUND

- One of the fundamental reforms under asset management is the requirement for project-based budgeting. The Operating Fund Rule (24 CFR 990) requires PHAs to manage according to an asset management model, including project-based budgeting.
- Under the old model, HUD funded each PHA's public housing program and not individual properties. The PHA was free to determine how much of the housing resources should be used for frontline costs or for central overhead costs.
  - Traditionally PHAs have prepared public housing operating budgets at the program level. The entire budgeting process has typically been a top-down approach; in many cases, site staff were not aware of budgeted resources for a property nor were they involved in the actual preparation of a property budget. Staff were not held accountable for the financial performance of a property.
- The Operating Fund Rule requires HUD to fund the properties (developments) directly. The PHA's Central Office Cost Center (COCC) can then charge the developments only specified amounts (fees) for the various services it provides. The COCC has to live within the fees it earns for providing those services. All other housing resources must remain within the development.
- The fees paid to the COCC can include the following, which will be discussed in detail later:
  - Property management fees
  - Asset management fees
  - Bookkeeping fees
  - Fee-for-(management)-services; and
  - Program management fees (e.g. Housing Choice Voucher Program, Capital Fund Program, etc.).

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- Following is a graphic illustrating the historic flow of funds, and the flow of funds under the new (current) model:



- Funding at the development level:
  - Improves the operational efficiency and effectiveness of managing public housing properties;
  - Provides appropriate methods and tools and mechanisms for monitoring performance at the property level;
  - Better preserves and protects each asset; and
  - Is consistent with the management norms in the broader multifamily industry.
- Prior to asset management, it was difficult to evaluate the property to determine whether it was self-sustaining or depended on, for instance, a disproportionate share of the PHA's operating fund.

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- Development level funding provides a full picture of the development's income and expenses, as is done in the broader rental real estate industry. This information can be used to improve the efficiency and effectiveness of each development, preserve and protect each asset, and provide information for monitoring performance at the property level.

HUD'S PROJECT-BASED REQUIREMENTS

- HUD allows PHAs a great deal of latitude with regard to the budget process; however, HUD has established some guidelines. This chapter will cover these guidelines.
- PHAs are required to prepare a budget for each development that was established in PIC. These budgets must be prepared and approved by the PHA's board prior to the beginning of the fiscal year. Approved board resolution must be submitted annually to HUD, but only one board resolution approving all project-based budgets is required.
  - However, development budgets must be made available to HUD and other interested parties as needed. The following circumstances are examples of when budgets may need to be made available to HUD:
    - When HUD is conducting an onsite review;
    - The PHA has breached the ACC; or
    - The PHA or development is financially troubled.
  - In addition, PHAs are required to make development budgets available to interested members of the public and state and local public officials.
- Again, HUD does not prescribe the budget format, but line items must readily reconcile to the Financial Data Schedule (FDS).

Notes

The Financial Data Schedule (FDS)

- The FDS is the HUD-prescribed financial template that is submitted electronically to HUD for each program or activity of the PHA, and now for each public housing development as well. You can think of the FDS much like the 50058, except for finance.
- The FDS has two reports of financial performance – the income statement and the balance sheet, which will be discussed later in more detail.
- All information on the FDS is derived from the PHA's financial reports. The purpose of the FDS is to provide PHAs and HUD with necessary data to assess the financial health of PHAs and their assets (including the public housing developments), and to provide PHA managers with operations data necessary to manage the developments and the portfolio strategically.
- Budgets should reasonably represent expected financial performance and consider all revenue sources and expenses of a development. We'll discuss revenues and expenses shortly.

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Section 2 Understanding Budget Terms

PER UNIT MONTH (PUM)

- Budgets typically are presented both in annual amounts and per unit monthly (PUM) amounts.
- PUM amounts are an important factor in assisting a property manager in comparing properties of different sizes (numbers of units and types of units).
- We would expect the dollar amount of some types of expenses to be greater for some properties than others by virtue of the number of units. If we just consider aggregate expenses and compare the expense of one property (say, maintenance) with another on an aggregate basis, we may come to the conclusion that if one property's expenses are lower, the property is doing a better job of controlling its maintenance expenses. But the reality might be that on a PUM basis we are actually spending more per unit.
  - For example, last year Willow Run spent $15,000 in heating and cooling costs, and Juniper Gardens spent $9,996. Based on these annual amounts, you might conclude that Willow Run spent too much. But, because Willow Run has 150 units and Juniper Gardens has 100, the PUM for heating and cooling for both Willow Run and for Juniper Gardens was $8.33.
- PUM applies to any category of expense or revenue—past, present, and future. For example, the property manager might want to look at the average rent for the last three years compared to this year.
- PUM also allows the asset manager to track expenses and revenues over time as the portfolio changes. For example, last year a PHA had 1200 units in its portfolio. As a result of demolition or disposition, this year the PHA has 1100 units. Just looking at annual amounts doesn't give the asset manager a way of comparing costs and revenues. PUM figures do give a picture of average amounts per unit.

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- Again, this type of budget format assists property managers in spotting trends and allows for comparison of performance between properties of differing sizes.

PUM Calculation

- PUM is calculated by taking the number of units in the budget times the number of months those units are available during the year and dividing an income or expense amount by this number.
- Any line item divided by UMA (Unit Months Available) = PUM
  - For example, if the PHA has a development with 150 units and gross dwelling rental income on those units is expected to be $372,727 for the year, the PUM amount would be: $372,727 ÷ (150 x 12) = $207.07.
- Example of PUM: Maintenance

  - The Sycamores spent $185,800 last year on maintenance materials.
    - $185,800 ÷ 2138 = $86.90 PUM

- Example of PUM: Utilities

  - You estimate that The Sycamores will spend $252,787 in utilities next year.
    - $252,787 ÷ 2138 = $118.24 PUM

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HUD-approved vacancies

- There are categories of vacancies that are HUD-approved. Vacancies in these categories still receive operating subsidy. For monitoring purposes, you will need to take into account the HUD-approved vacancies. These will be indicated in PIC.
- The number of vacant units eligible for operating subsidy must not be more than three percent of the total units, on a development-by-development basis.
- HUD-approved vacancies include months that units are not occupied due to:
  - Modernization (Capital Fund) (within the HUD-approved schedule);
  - HUD-approved special use units (resident initiatives and self-sufficiency, anti-crime activities, etc.);
  - Disasters (formally declared);
  - Litigation (court order or settlement agreement, for example);
  - Casualty loss (pending insurance settlement); and
  - Changing market conditions.

Example:

- Maple Manor has 180 units. Last year, the development had five units offline for two months for modernization, and one unit offline the whole year for casualty loss (insurance settlement being disputed).
- The development spent $248,700 last year on maintenance costs. What was the PUM for maintenance?
- 180 units x 12 months = 2160. Subtract the 12 months for the unit offline all year and 10 months for the units undergoing modernization = 2138 unit months available.
- $248,700 ÷ 2138 = $116.32.

- For monitoring purposes, you will also take into account the vacancies that are not HUD-approved, to analyze past trends, and to forecast and budget.

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Section 3 The Budget Process

RESPONSIBILITIES OF THE PROPERTY MANAGER

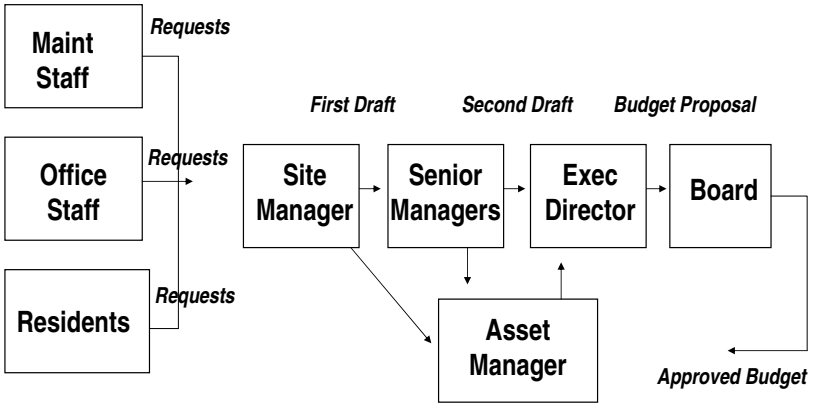
- Again, the roles and responsibilities of a property manager vary among PHAs. Let's revisit those roles and responsibilities for a moment. Following are all the responsibilities that would be part of the manager's daily activities, if the PHA determined that it was in the best interest of the property:
  - Budgeting – development, implementation, and performance;
  - Financial management – approve payments, manage fixed assets, rent collection, tenant accounting;
  - Purchasing goods and services for the property;
  - Property inspections;
  - Site-based maintenance;
  - Site-based waiting list;
  - Leasing, lease enforcement, and marketing;
  - Rent calculations and reexaminations;
  - Resident relations;
  - Security; and
  - Update data in information systems.
- Again, in some cases, some of these functions may be centralized. In this chapter, we'll cover what centralized functions can be paid by the property, and how they can be paid for.

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DEVELOPING THE BUDGET

- Developing a financial plan (a budget) at the development level and holding site-based staff accountable for the financial performance of a development is a major component of asset management.
  - Under this model, site-based staff should play a major role in the development of the budget and be familiar with the types of and level of income and expenses for their properties.
  - Developing the budget should be a collaborative effort, starting with the property manager. There is consensus among the best property management companies that the property manager should have frontline responsibility in the preparation of budgets. Below is a graphic of how the collaborative process typically works:



  - In addition, under this model, property managers should be held accountable for managing the financial resources of their properties and be knowledgeable about variances in income and expense.

Notes

- The characteristics of a good budget process include:
  - Bottom-up budgeting in which development staff are actively engaged in the process;
  - Timely and consistent monitoring by development staff of actual-to-budget;
  - Holding property managers accountable for the financial performance of their developments; and
  - Property managers providing management with corrective action plans when financial performance varies by an established benchmark (e.g., when amounts vary by more the 5% from budget).

Notes

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Section 4 Steps in Budget Preparation

- Although each PHA will have developed its own budgeting process, the following steps are common regardless of the process adopted by the PHA:

  1. Define the property goals for the year;
  2. Identify income sources;
  3. Determine expenses;
  4. Determine if the plan is feasible;
  5. If feasible, present the budget to executive management for approval; and
  6. Once approved internally, present to the board for final approval.

- Let's discuss each of these steps.

1. Define the goals for the development for the year

- This step involves interaction with management and others in the PHA who are responsible for helping to establish the overall direction of the agency.
- What are the strategic objectives set by management? What are the specific objectives (goals) for the property for the year? Define these in financial terms (i.e., prepare a budget that is consistent with helping to achieve these objectives).

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2. Determining development income

- The next step in preparing a development budget is to identify the revenue the development is expected to generate. Examples of development income include:
  - **Dwelling rent.** Tenant rents represent one of the major sources of income for a property.
    - Estimating dwelling rental income will require a rent roll. The rent roll provides information about the tenant portion of rent for occupied units.
    - It is essential that the property manager closely monitor the rent roll when rent is due to identify delinquencies.
    - The amount of rental income budgeted will be directly related to the number of units occupied and/or expected to be occupied in the fiscal year.
    - Once the average rent from the rent roll has been determined, it should be adjusted by expected occupancy. The property manager will have to have an idea about the occupancy rate for its development. The occupancy rate should reflect both recent history and expected levels in the coming period.
      - A key concept to understand is: the lower the occupancy percent the less dwelling rental income will be earned. Operating subsidy does not just make up the difference of lost dwelling rental income. In many cases, vacant units mean a loss in both dwelling rental income and operating subsidy.

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- **Operating subsidy.** Operating subsidy is a major revenue source for the development. Again, operating subsidy is calculated individually for each development.
  - Since operating subsidy is determined at the development level, the property manager will have information about the amount of operating subsidy for its development.
  - Operating subsidy is calculated on a calendar year basis. PHAs that have fiscal years that overlap a calendar year will have operating subsidy from two different calendar years (different appropriations).
  - The operating subsidy calculations (forms) PHAs are required to submit to HUD will be the source document for this revenue item.
  - When subsequent calendar year amounts are not fully known due to delays in Congressional appropriations, the PHA will have to estimate the amount—the conservative approach will be to use the previous year's amount.

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- **Other Revenue.** A third component of development revenue is a collection of revenue items referred to as "Other Revenue". These include:
  - Other tenant charges – consists of various fees charged to tenants for such things as maintenance charges beyond normal wear and tear, late fees, and insufficient check charges.
  - Excess utilities – represents charges to tenants for using more than an established reasonable amount of utilities for a unit.
  - Investment income – each development has its own balance sheet. This means a development's cash balances will be uniquely identified and any interest earned on those cash balances will be available income to the development. The amount of interest a development earns will be based on its available cash balances during the year and the level of interest rates.
  - Fraud recovery – represents amounts due from tenants typically for underreporting income. Amounts that the property manager is able to collect become resources to the development to pay its expenses; they do not offset operating subsidy.
  - Non-dwelling rent – typically earned on non-dwelling units or deprogrammed dwelling units rented to social services providers to provide services to tenants, or perhaps in the case of non-dwelling units, rent received for renting space to a small business that provides services to the development's tenants such as a small store or beauty salon.
  - Other income – this is a catch all category to identify any other source of development income not specifically identified in any of the other categories. For example, it includes fees earned on vending machines, laundry facilities, and cell phone towers.

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- **Capital Fund Program (CFP) contributions.** These funds are typically available for two types of expenditures; those that improve or extend the useful life of a property, called "capital improvement", and those that are considered part of the development's operating expenses (for example, CFP funds used for operations and or management improvements).
  - CFP funds used for operations (known as budget line item (BLI)1406) act as additional "operating subsidy" for a development and are used to enhance the revenue available to fund normal operations.
    - PHAs with 250 or more units may transfer up to 20 percent of CFP to operating funds, while PHAs under 250 units may transfer 100 percent of their entire CFP funds to operating funds.
    - Note that Notice PIH 2018-03 also allows PHAs the flexibility to use a portion of their operating subsidies for capital activities. HUD will publish the maximum amount allowable (e.g., 20 percent) towards the end of each funding year.
  - CFP funds used for management improvements (known as BLI 1408) are typically to improve management systems such as the purchase of a new computer or software system, or specific training for development level staff.
    - Under the Capital Fund Final Rule, PHAs with 250 or more units are limited to not more than 10 percent of their CFP funds for management improvements. This is phased down from a prior 20 percent limit.
- CFP funds used for capital improvements for a development are not part of the operating budget but are part of a separate capital budget for the development. Preparation of a capital budget is not part of this course.

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- **Revenue Benchmarks.** Preparing a budget comparing income and expenses with industry benchmarks can aid in determining the reasonableness of planned amounts.
- Comparing data against standards is known as benchmarking. Benchmarking is a valuable tool in budgeting as it helps identify whether planned income and expenses are in line with properties of similar characteristics. This can be valuable information to a property manager in determining areas for possible performance improvement as well as help identify areas that may need further investigation to determine why they are not within a benchmark range.
- PHAs may contact other PHAs in their region or state to see if they have historically tracked revenues and expenses at a development level, and use this information for their development's budgets.
    - Several large PHAs have tracked revenues and expenses at a development level for several years and may be willing to share this data.
    - Additionally, a PHA may average its PHA-level revenues and expenses reported in prior year Financial Data Schedules on a PUM-basis to form their development-level budgets.

Notes

3. Determining development expenses

- Once a development's expected revenue has been estimated, the next step is to estimate its operating expenses. Are we using historical data or zero based? Do we compare with benchmark or do we feel comfortable with our estimate?
  - The property manager may be using historical data about the development and/or benchmark data to make estimates about expenses, or zero-based budgeting. In some cases, the property manager may be using a hybrid method.
  - An example of using historical data may be for insurance; another might be utilities.
  - An example for using zero-based budgeting might be maintenance expense, where you find out the going rate in your local market for the services provided.
  - In either case, also comparing estimates against appropriate benchmark data will aid the property manager in determining how realistic are the estimates for the development.
- Development expenses are typically categorized into the following expenses:
  - ***Administrative expenses*** would include management fees, bookkeeping fees, administrative salaries and benefits, office supplies, telephone and internet, legal, audit, marketing and travel.
    - An example of legal fees would be the eviction representation of legal counsel, whether in-house or contract, in court. This would be a fee-for-service rate, to be discussed later.

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Notes

- ***Tenant services*** might include the wages for social services provided at the development.
- ***Utilities*** will include all utilities provided to the site but not necessarily the residents.
- ***Maintenance expenses*** include salaries and benefits, elevator, snow removal, trash removal, fire safety, security, supplies, other contracts and fee-for-service expenses.
- ***Protective services*** will include development level security personnel or contract costs for security services.
- ***Insurance*** includes liability, property and other insurance as necessary such as fidelity insurance for the development.
- ***General expenses*** will include PILOT, compensated absences, and bad debt expense.
- ***Asset management fees***, although a development expense, are generally “below the line” and taken by the COCC only if there is adequate cash (excess cash) from the previous year. Fees paid by the development will be discussed later in this chapter.

Estimating Expenses

- Keep in mind the following when estimating development expenses:
  - Strategic goals for the development. Do the expenses in the amounts budgeted match up with the strategic goals for the development?
  - Plans that would impact spending such that planned expenses will fall outside historical averages. Do we expect any events this year that if using historical data to make our expense estimates, would result in historical data not being valid?
  - Expected price increases for wages, goods, and services. What is the level of inflation expected to be this year and have we accounted for it in our estimates? Have vendors been contacted to obtain an estimate of any anticipated price increases based on other variables such as supply and demand?

Notes

Yearly vs. monthly expenses

- Although not required by HUD, many PHAs also prepare monthly budgets, which show estimated income and expenses in the months in which they will occur. Monthly budget amounts are not always straight-lined from the annual amounts.
  - For example: lawn care expenses will typically take place to the greatest extent during the growing season, or utilities will be highest when the demand is highest for the type of utility.
  - The monthly budget is important as it helps the property manager have an understanding of the cash needs of the development as well as when these expenses are expected to be incurred.

4. Determine if the plan is feasible

- Once we've determined the income and expenses for the development, it's time to find out the bottom line. This is known as the net operating income. You might also see this referred to on the operating budget as "cash flow from operations."
  - How is this determined? It's simply the difference between development income and development expenses. For example:

Total development income:		$	500,000
Total development expenses	–	$	480,000
Cash flow from operations:		$	20,000

  - The bottom line is the difference between income and expenses.
    - It can be positive—we spent less than we made
    - It can be negative—we spent more than we made
  - If the development budget is showing positive cash flow from operations, it's time to move to the next step, meeting with management to secure their approval. If it does not cash flow, more work is needed.

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- In cases where a development is projected to incur a loss, the property manager will be faced with a decision as to how to cover the loss. There are several options available to the property manager; the solution may end up being a combination of one or more of these options.
    - **Increase income** – The sources of income the property manager will have some control over are dwelling rental income and other revenue. The level of operating subsidy for the most part will be out of the control of the property manager. How can dwelling rental income be increased? Some options might be: increase occupancy of the development if possible, establish minimum rents; analyze if flat rents should be increased; collaborate to offer more economic self-sufficiency strategies; and reduce turnover time for re-renting vacant units.
    - **Reduce expenditures** – When considering how to reduce expenditures, first look for those expenditures that are the largest such as salary and benefit expense as they will normally result in the greatest cost savings when reduced.
    - Another area to consider is discretionary expenses. Discretionary expenses are expenses that normally do not impact the level of services provided when reduced. Travel expense is an example of a discretionary expense.

Notes

- **Use reserves** – Reserves are the accumulation of excess revenue over expense. In the public housing program reserves that are available for use in covering an operating loss are called Unrestricted Net Assets. There are times when it is appropriate to use reserves to cover an operating loss, such as when an unexpected event causes expenses to exceed revenue. However, the use of reserves should never be considered a permanent resource to cover deficits. Doing so would eventually exhaust a development's reserves. The reasons for losses should always be investigated by the property manager to determine whether they are one-time events or reoccurring. Corrective action should be taken to eliminate losses.
- **Use of CFP funds** – The Capital Fund may also be a source of funds to assist in temporarily covering operating losses. As explained earlier, CFP funds can also be budgeted for us as additional operating subsidy for a development. However, the use of CFP funds for this purpose would need to be reflected on the CFP 5-Year Action Plan.
- **Transfers from another development** – Excess cash from other developments may also be available as a resource to help a development that is running a deficit until corrective action can be taken. This is a COCC decision. The budget should not reflect "expected" excess cash from developments earned in the budget year
- **Defer/Reduce/Forgive fees charged** – this is a COCC decision.

- Bottom line, it's important to make realistic goals you can keep, and base the budget estimates on the most accurate information regarding projected revenues and expenses.

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5. Present the plan to management for approval

- You've spent a lot of time preparing your budget by gathering data, meeting with various staff and ensuring the plan is feasible, Now it's time to present your budget to management for approval.
- Depending on the size of the PHA this may mean a meeting with the executive director or a regional manager. During this process you may find that management accepts your budget without change or they may direct you to make changes. Don't be surprised if this process takes several meetings.

6. Board approval

- The budget must now be presented to the board for formal approval. Depending on the size of the PHA, the presentation may be made to the board by the executive director, regional manager(s), or the property managers. During this process, just like the former approval process, the board may adopt the development budgets without change or they may direct management to make changes.
- It's important in the budget planning cycle that management plan for the possibility that the board may direct them to make changes and re-present the budgets at a later date for approval after the requested changes have been made.
- Remember, the PHA's board must approve all development budgets prior to the beginning of the budget year.
- Also remember that some state statutes will require that the PHA hold a public meeting to review budgets before they can be formally adopted.

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Notes

Section 5 Budget Monitoring

- Once the budget is completed, the process doesn't end there. The property manager must now monitor how the development is performing against the budget. This is done by reviewing what are called budget-to-actual operating statements.
  - These statements are typically provided to the property manager by the accounting department by a set time each month for the previous month's activity.
  - By reviewing budget information to actual financial data, it will be possible for the property manager to quickly identify areas where improvements are needed or when the property is not performing well, so adjustments in operations can be made.
  - We'll explore budget-to-actual monitoring later in this chapter.

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Section 6 Paying for Services

INTRODUCTION

- PHAs have traditionally delivered property management services from a centralized location rather than at the development level or by contract. For example, many PHAs operated a central maintenance department or a central tenant reexamination office.
- HUD allows PHAs to provide many property management services centrally, as long as they are provided in the best interests of the property, considering such factors as cost and responsiveness.
- Property services can be arranged in such a manner that they are:
  - Provided at the development level;
  - Shared between developments;
  - Provided centrally to the development (i.e., allocated or prorated); and/or
  - Provided by contract to the developments (either by a third-party or the COCC).
- Regardless of the method used, services must be arranged in the best interest of the properties.

FRONTLINE SERVICES – PROVIDED AT THE DEVELOPMENT

- In multifamily housing, the tendency is for most day-to-day property management functions to be handled by development staff, i.e., a decentralized model. Under this model, the maintenance staff are "generalists" who are capable of handling a wide range of routine maintenance work.
- Typically, a development is staffed at a level sufficient for normal needs. At times of peak demand—say, a sudden increase in move-outs—contract support is obtained. Contracts are also used for specialized or non-routine work, e.g., elevator maintenance or trash removal.

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- The overall volume of work generated by a development will be dictated by its characteristics—property type (family vs. elderly), design (scattered, high-rise, low-rise, etc.), bedroom density, property size, condition, location, etc.
- But once the overall needs are determined, the PHA will best determine how those needs will be met—with onsite staff? With shared staff? With centralized staff? Or by contract? The factors will include:
  - Costs (which model is most cost-effective?);
  - How accessible the development is to another development (i.e., the opportunity to share staff);
  - The skills and competencies of the staff, and
  - The anticipated responsiveness under the alternative arrangements and/or the quality of work.
- Because the operating subsidy, tenant rents, and capital funds are in the development's budget, it makes sense to focus the tasks related to the functioning of the development at the development, if the tasks are done in a cost-efficient, high-caliber, and timely way. This is why a highly skilled staff at the site is crucial to the success of the development and the program.

SERVICES SHARED BETWEEN DEVELOPMENTS

- HUD allows developments to share administrative or maintenance staff where reasonable. It may not make economic sense to have full-time personnel dedicated to a specific development. Shared resources costs are distinguished from frontline prorated costs (to be discussed next) in that the services being shared are limited to a few developments as opposed to being prorated across all developments.

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- Generally, staff are shared between 2-3 developments, often in response to the fact that, separately, developments cannot afford full-time staff.
  - For example, a PHA may decide to share a manager and a maintenance technician staff between two small properties located near each other, neither of which could reasonably support the cost of full time employees due to the size of the properties.
- Shared resources must be reasonable, necessary, and based on services provided to the development.

FRONTLINE ALLOCATED SERVICES

- Another alternative to full-time onsite staffing or shared resource staffing is centralizing an administrative task and pro-rating it across all developments. Centralized, prorated front-line property administrative functions must not cost more than what the property would incur if the functions were performed on-site.
- A PHA cannot prorate centralized maintenance. All centralized maintenance services must be performed as a fee-for-service (discussed next). And, except where indicated, PHAs cannot charge developments for the cost of a centralized supervisor. In addition, PHAs cannot charge developments for the cost of any centralized procurement staff.
- HUD allows PHAs to provide prorated staff for certain functions such as:
  - Waiting list management (including supervisor)
  - Intake/resident screening (including supervisor)
  - Rent collection
  - 504 coordinator
  - Work order intake
  - Social services/resident services (including supervisor)
  - Security services (including supervisor)

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Notes

- Prorated staff costs are determined by taking the total of direct labor (salary, benefits, payroll tax expense), supplies and equipment, determining an acceptable allocation basis, and prorating the cost to the developments based on the allocation basis.
  - Examples of reasonable methodologies for prorating central office staff that are performing allowable front-line activities include:
    - Percentage of units, bedroom distribution, amount of unit turnover, or other reasonable method based on how the activity is delivered.

Example

- If a central work order system is used at the PHA, the PHA would be likely to have a central call-in number for residents to call in work orders.
- Work orders might be assigned a number of ways, including assigned by property to specific individuals in a centralized fee-for-service maintenance department. In the case of a site-based maintenance delivery system, the work orders might be simply faxed to the site to be performed by the site-based maintenance staff.
- A reasonable method of billing back the cost of the centralized work order intake process would be to bill the expense based on which property each work order came from. So, for example, if there are 100 work orders and 25 of them come from Juniper Gardens in one month, Juniper Gardens would be billed 25% of the total monthly employee cost, including benefits, for receiving, delivering and, perhaps, monitoring the work orders.

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    - Note that the cost of the maintenance staff performing the work orders is not included in this example. Any centralized maintenance staff would charge on a fee-for-service basis (discussed next). The payroll expense of the site-based staff would be charged directly to the site on a shared or full-time basis, depending on the property.

- Whether shared or prorated, the PHA will need to document how it arrived at the cost.
    - For example, if a PHA is prorating 50% of a central office employee's time for handling application intake functions, the job description of the employee should include application intake. The PHA will also need to show records to support that there is a basis for charging 50% of that employee's time to the developments for handling applications.

Notes

FEE-FOR-SERVICE

- The frontline fees-for-service are fees the development pays the COCC for additional specialized services the COCC offers to developments. (i.e., specialized maintenance).
- In order to recover the costs of these services, the development is charged for the actual time incurred at a reasonable rate. These fees are like paying for a service provided to the developments by a vendor. If a development needs to contract with a plumber, the property expects to be charged the cost of the plumber at the plumber's hourly rate. There is no difference whether the plumber is contracted as a vendor or contracting with the COCC to perform this service.
  - For maintenance staff, the COCC can charge a fee-for-service at a higher rate than the actual salary/benefits of the maintenance staff, but the rates can't exceed rates paid in the local market for that service.
  - Another example of fee-for-service is when the development pays for eviction representation of legal counsel, whether in-house or contract, in court. The development would pay the legal counsel the going rate for this kind of service in the open market.

Reasonableness of fees

- Fee-for-service rates must be comparable to market rates and must be in the best interests of the development. The fee-for-service must not exceed what the development would incur for the service if obtained through the market. The PHA needs to document the methods used to determine market rates for any activities charging a fee-for-service.
- Market rates should be obtained to provide HUD documentation to support the established rate. HUD recommends at least three quotes. The PHA will need to verify that rates obtained are for identical or at least similar services performed,

Notes

- These rates will need to be reviewed annually and adjusted as needed.
- Keep in mind that market rates are fully loaded.

Example market rate study:

Bob's Plumbing Service	$ 75.00
ABC Plumbing Service	$ 90.00
Jackson's Plumbing	$ 80.00
Total	$245.00
Average Rate	$ 81.67

  - The average is only one method; there are other methods to arrive at a market rate.

- The market survey establishes the upper bounds of the rate, however the COCC can charge a lower rate and/or have different rates for different developments.
- The COCC could charge "after-hours" rates, where a different (higher) fee is charged for work completed after normal business hours, if supported by market data.
- The PHA is not allowed to "blend" rates, that is, average the rates together to arrive at a single rate. For example, you would not "blend" the rates of a centralized HVAC specialist, a centralized carpenter, and a maintenance technician.
  - Remember, one of the goals expressed by HUD is to track the actual cost incurred for each development. By averaging the rates, it would be difficult to arrive at the actual cost of maintaining the development.

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Section 7 Fees Paid by the Development to the COCC

INTRODUCTION

- The central office, known as the Central Office Cost Center (COCC) performs indirect services. Indirect services aren't related to the day-to-day management of the property; rather, they're the strategic oversight activities of the program and portfolio. Indirect services cannot be directly charged to the developments.
- The asset management model requires indirect costs to be recovered through a series of fees.
  - HUD refers to these fees as conventional fees, since these are the typical types of fees a property management company would earn for managing properties (i.e., property management and bookkeeping fees).
- Typical indirect costs are the executive director, asset manager, legal, human resources, IT,
- The conventional management fees paid to the COCC are:
  - Property management fees
  - Bookkeeping fees
  - Asset management fees
  - Capital Fund program management fees
  - Development fee

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PROPERTY MANAGEMENT FEES

- Property management fees are paid monthly to the COCC and are earned on each occupied unit and allowable vacancy.
- HUD requires that the fees be reasonable and has published fee rates. The PHA can choose to base property management fees on one of the following:
  - 80th percentile fee of the Federal Housing Administration (FHA)
  - Local fee published by HUD's Office of Multifamily Housing
  - Local market data
- Following is the most recent table of FHA data:

TABLE 1: CY 2026 Schedule of 80th Percentile of Property Management Fees in FHA Housing by Field Office, for Unlimited Dividend, Limited Dividend, and Non-Profit Ownership Types (Effective 1/1/2026)

Field Office	Mgmt. Fee (PUM)	Field Office	Mgmt. Fee (PUM)
Albuquerque	$63.47	Little Rock	$73.85
Anchorage	$88.24	Los Angeles	$117.41
Atlanta	$72.37	Louisville	$75.80
Baltimore	$77.34	Manchester	$88.03
Birmingham	$66.78	Miami	$92.08
Boston	$114.75	Milwaukee	$70.31
Buffalo	$79.66	Minneapolis	$86.83
Caribbean	$75.14	Nashville	$72.77
Charleston	$63.28	New Orleans	$69.77
Chicago	$85.17	New York	$97.62
Cincinnati	$58.66	Newark	$86.82
Cleveland	$60.52	Oklahoma City	$67.11
Columbia	$73.68	Omaha	$62.27
Columbus	$66.01	Philadelphia	$69.15
Denver	$73.33	Phoenix[2]	$56.81
Des Moines	$60.01	Pittsburgh	$75.10
Detroit	$67.84	Portland	$77.98
Fort Worth	$60.70	Providence	$98.42
Grand Rapids	$56.75	Richmond	$84.39
Greensboro	$71.92	Sacramento	$78.40
Hartford	$105.51	San Antonio	$71.10
Honolulu	$80.64	San Diego	$95.95
Houston[2]	$56.57	San Francisco	$89.44
Indianapolis	$76.36	Seattle	$79.45
Jackson	$77.20	Shreveport	$64.82
Jacksonville	$75.69	St. Louis	$61.52
Kansas City	$63.73	Tampa	$87.46
Knoxville	$62.38	Tulsa	$59.18
Las Vegas	$73.09	Washington, DC	$81.25

Notes:

1. The above fees have been adjusted to reflect the average vacancy loss for each market, i.e., the rates shown reflect the fees paid for occupied units.
2. In the field offices where the fee decreased in 2026 actual non-substitute schedules, the PHA may use the amount from the 2024 schedule. The chart above shows the higher of the 2025 schedule and the 2026 generated fee. Using the 2026 non-substitute schedule, the management fee for these field offices would have been as follows: Houston ($52.11), and Phoenix ($52.00).

Notes

Allowable vacancies

- A PHA is eligible to receive operating subsidy for vacant public housing units for each unit month the units are under an ACC and meet one of the following HUD-approved vacancies:
  - *Units undergoing modernization*. Vacancies resulting from development modernization or unit modernization (such as work necessary to reoccupy vacant units) provided that one of the following conditions is met:
    - The unit is undergoing modernization (i.e., the modernization contract has been awarded or force account work has started) and must be vacant to perform the work, and the construction is on schedule according to a HUD-approved PHA Annual Plan; or
    - The unit must be vacant to perform the work and the treatment of the vacant unit is included in a HUD approved PHA Annual Plan, but the time period for placing the vacant unit under construction has not yet expired. The PHA shall place the vacant unit under construction within two federal fiscal years (FFYs) after the FFY in which the capital funds are approved.
  - *Special use units.* Units approved and used for resident services, resident organization offices, and related activities, such as self-sufficiency and anti-crime initiatives.

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- On a development-by-development basis, units affected by the following events that are outside the control of the PHA:
    - *Litigation*. Units that are vacant due to litigation, such as a court order or settlement agreement that is legally enforceable; units that are vacant in order to meet regulatory and statutory requirements to avoid potential litigation (as covered in a HUD approved PHA Annual Plan); and units under voluntary compliance agreements with HUD or other voluntary compliance agreements acceptable to HUD (e.g., units that are being held vacant as part of a court-order, HUD approved desegregation plan, or voluntary compliance agreement requiring modifications to the units to make them accessible pursuant to 24 CFR part 8).
    - *Disasters*. Units that are vacant due to a federally declared, state-declared, or other declared disaster.
    - *Casualty losses.* Damaged units that remain vacant due to delays in settling insurance claims.
    - Units that are vacant due to changing market conditions (must appeal to HUD).

BOOKKEEPING FEES

- A bookkeeping fee can be charged to the property by the COCC for providing accounting/bookkeeping services. This would be like a property contracting with an outside vendor that provides accounting services. In this case, the vendor is the COCC.
- HUD has established this fee at $7.50 PUM. Like the property management fees, these fees are earned on each occupied unit and allowable vacancy.

Notes

ASSET MANAGEMENT FEES

- Asset management fees represent costs paid by a development to the COCC for providing strategic activities. These activities include:
  - Establishing strategic goals for the organization;
  - Development activities;
  - Risk management activities;
  - Capital planning activities; and
  - Financing activities
- These activities could be summarized as services typically provided by the owner of a property.
- This fee is not to exceed $10 per unit per month, based on the total number of ACC units. The fee can only be charged to the individual property if the property is able to afford such a fee. The regulations have defined the ability to pay the fee to a property generating "excess cash."
  - Excess cash will be determined from the audit of the previous year's balance sheet. The calculation is basically certain assets minus current liabilities, minus one month's operating expenses.

CAPITAL FUND MANAGEMENT FEE

- The Capital Program Grant (CPG) is calculated for each development and allocated directly to the development. 10% of the CPG is paid as an administrative fee to the COCC.
  - The administrative fee of 10% of the total grant is to cover the cost of the modernization coordinator, financial reporting, oversight, etc.
  - The PHA may charge the development construction supervisory costs, and the cost of the Physical Needs Assessment (PNA), as a direct program cost of the development.

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DEVELOPMENT FEE

- A development fee includes activities that can involve the use of Capital Fund Program funds, HOPE VI funds, or other public housing capital assistance eligible to be used for development.
- Eligible costs include administrative costs incurred for development. A PHA may use these public housing funds to pay for its administrative costs in connection with development activities.
- A reasonable amount for administration would be 3 percent of the total property budget (up to 6 percent with HUD approval).

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Section 8 Monitoring Budget to Actual

- In order to monitor expenses throughout the course of the month, the property manager should use a declining budget form to record all purchases. This form may be generated by accounting, or may be maintained by the property manager. This form will be used by the regional manager when approving purchases over the purchasing limit established for the property manager.
- The property manager most likely will monitor expenses and receivables over which he or she has the most control. For example, worksheets would usually not be required for salaries and wages, insurance, taxes, etc.
- Worksheets should be retained as a tracking and audit tool.

BUDGET TO ACTUAL

- It is important to monitor the progress of the budget on a monthly basis. The property manager must review both the income line items (rent, other income, repayment agreements, etc.) and the expense line items (maintenance costs, office supplies, etc.)
- While reviewing the monthly operating statements, the property manager should identify all variances. The variance is a comparison of what was budgeted (estimated) and what actually happens.
- Both favorable and unfavorable variances are shown. A favorable income variance, for example, is when the actual income is greater than the budgeted income.
- The property manager should provide a written explanation to the regional manager at least monthly, identifying reasons for variances that exceed certain pre-established thresholds, e.g., 5% or $500. Any explanation required for variances that exceed the approved thresholds should describe what actions have been taken and/or include a plan for corrective actions.

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BUDGET REVISIONS

- Budgets are not merely an estimate of what to expect, but are the basis of decision-making for your development and the agency's portfolio as a whole.
- Budget monitoring will involve situations where corrective actions need to be taken and your budget may need adjustments as the year progresses to reflect changes in your situation. Or a revised budget may be necessary when change makes the original budget irrelevant.
- After the variances have been explained, it will be necessary for the you or the asset manager to do budget revisions to move money into the line items with negative variances. This variance was created by an expense that was not budgeted for or was more than anticipated. Therefore, you must find the money in another line item. Occasionally the board will need to approve a major budget revision.

KEY ACCOUNTS FOR THE PROPERTY MANAGER TO MONITOR

- As a property manager, certain account balances are particularly relevant for monitoring purposes. Key accounts include:
  - Cash/investments
  - Tenant accounts receivable
  - Accounts payable/current liabilities
  - Tenant security deposits

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Section 9 The Balance Sheet

- A balance sheet is a snapshot of the development's financial position on a given day (usually, the last day of the month).
  - Typically, balance sheets are prepared on a monthly basis and presented along with the income statement for internal reporting purposes.
  - For HUD reporting purposes, the balance sheet is submitted only at year-end.
- The balance sheet provides a basis to evaluate the equity structure (net worth) and assess the liquidity and financial flexibility of the development.
  - Liquidity is defined as the ability to convert assets into cash or to pay a liability.
  - Financial flexibility is the ability to take effective actions to alter the amounts and timing of cash flows to respond to unexpected needs and opportunities.
- The balance sheet also provides a basis for comparing changes from prior reporting periods. Did equity (net worth) account balances increase? Did cash/investment balances increase from the prior year?

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BALANCE SHEET TERMINOLOGY

Assets

- Current assets are assets that can be easily converted to cash.
  - Cash, investments, accounts receivables, and prepaid insurance are examples.
- Non-current assets (fixed assets) are assets used for operations with an expected life of several years.
  - Land, buildings, equipment, construction in progress, and accumulated depreciation are examples.
- Restricted assets normally represent funds restricted for deposits or debt obligations
  - These are 'externally' restricted, i.e., not something that the PHA itself designates but imposed by a third-party.

Liabilities

- Current liabilities are liabilities typically due to be paid within one year.
  - Accounts payable, tenant security deposits, PILOT (unpaid from previous year), and wages/payroll payables are examples of current liabilities.
- Non-current liabilities (long-term liabilities) are liabilities that are typically due with multiple year payments.
  - Examples are CFFP financing, capital lease obligations. Most developments typically don’t have long-term liabilities.

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Equity

- Equity is defined generally as the remaining amount of assets after all liabilities have been extinguished. Equity is also known as net assets.
- Unrestricted net assets are the funds available to utilize for future years expenditures.
- Investment in net fixed assets is the equity invested in fixed assets after debt has been considered.
- Restricted net assets are funds restricted by an outside source

FUNGIBILITY AND THE BALANCE SHEET

- Developments that have excess cash may transfer it to developments that may need additional cash. This is known as "fungibility."
    - Excess cash is determined from a development's balance sheet from the previous year. A development may exercise fungibility only to the extent that a development has excess cash.

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- If a development has excess cash it can be:
  - Retained for future expenditures of the development;
  - Transferred to other developments (fungibility);
  - Used to pay the asset management fees to the COCC up to the maximum amount allowed by HUD; and/or
  - Used for other eligible purposes, which could include:
    - Financing costs for the modernization or development of new units;
    - The payment of legal costs due to lawsuits and other legal issues incurred prior to the conversion to asset management that can't be charged to specific developments; and/or
    - The payment of legacy liabilities such as accrued pension liabilities and retirement benefit liabilities that were incurred prior to the adoption of asset management.
- Calculation of excess cash is determined from a development's balance sheet as submitted to HUD via the FDS. The formula for calculating excess cash is certain current assets minus current liabilities minus one month's operating expenses for the development.

BALANCE SHEET ISSUES

- Just because a development has an impressive balance sheet doesn't give the property manager the authority to incur additional unbudgeted expenditures.
  - Expenditures must be authorized through an operating budget approved by the board.
  - Executive management may plan to utilize a portion of these funds for an improvement project or may make the decision to transfer funds from one development to another (fungibility).

Notes

- The balance sheet should be an integral part of the budget preparation and development monitoring process.
  - Only through an understanding of the balance sheet to determine the availability of funds, can one understand the impact of the budget process.
- Analyzing balance sheets will bring to light issues that need to be addressed to insure the future viability of the development.

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Section 10 Financial Audits

- Every housing authority that expends $500,000 or more in federal funds must undergo an audit of its financial statements each fiscal year. The audit must be conducted by an auditor independent of the agency. The purpose of the audit is to ensure that the PHA's financial statements are sound and present an accurate picture of the agency's financial condition.
- As the property manager, you should understand your property's audit, because the audit and the audit report ensures that the property's financial statements are sound and can be relied upon as an accurate reflection of the property's financial condition.

How to Read the Audit

- If the auditor gives an "unqualified" opinion, it means that the auditor can give a firm opinion based on documentation. Any type of "qualified" opinion means that the auditor has some level of concern with the records or processes reviewed. A qualified opinion can be damaging to the credibility of the agency.
- A "finding" is a monetary irregularity, or condition that is not in compliance with statutes or regulations.
- A "concern or observation" is a deficiency that needs to be brought to the attention of the housing authority but isn't in noncompliance with a statutory or regulatory requirement.

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Notes

Section 11 Summary

- Good financial management of the development is not divorced from good property management skills, good customer service skills, collaboration skills with other departments, hard work, and fairness. You need comprehensive, consistent financial and occupancy policies, and an up-to-date lease. Electronic reporting, accurate and on time, will need to be generated for each development.
- Commitment to vision and the good of the community will be reflected in an impressive balance sheet and bottom line.
- We have seen that filling the units, collecting the rent, and keeping on track with your budget are key responsibilities.

DAY-TO-DAY RESPONSIBILITIES

- Basically, your development is your business. All the following responsibilities affect the financial viability of your development:
  - Marketing units, selecting families, making unit offers, and filling units quickly.
  - Maintaining and operating the development in a safe and habitable manner, keeping the site, units, common areas, building exteriors, and building systems functionally adequate, operable, and free of health and safety hazards.
  - Determining tenant income and calculating rent accurately and conducting annual and interim reexaminations.
  - Collecting rents on time and other amounts owed by tenants.
  - Maintaining development accounts, records, and reports.
  - Ensuring that staff practices match policies.
  - Keeping risk to acceptable levels.
  - Complying with HUD regulations and federal, state, and local law and codes.

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UNIT 13 Property Management

Section 1 Introduction

- In the public housing program, land and buildings are the primary assets of the program. Although housing authorities differ in their organizational structure and the specific job duties of the manager, the manager must ensure that the property is safe, habitable, functionally adequate, operable, free of health and safety hazards, and competitive in the marketplace.
- Performance of the property manager is closely tied to the performance of the property under the asset management model.
- A key aspect of asset management in the multifamily industry is the implementation of a comprehensive property management plan to achieve programmatic goals or desired outcomes for each property and for the portfolio as a whole and measuring and monitoring performance.
- Property management requires management of rent streams, physical space, property values, residents, and staff of the property. The information and reports provided by the manager should reflect financial and non-financial outcomes.
- In this chapter, we will focus on the physical aspects of property management, such as routine maintenance and inspection of units, buildings, and the site, property control, capital improvement, and risk management.

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Section 2 The Maintenance Function

ROLE OF THE MANAGER IN MAINTENANCE

- Because the manager represents the PHA to the resident, managers should be knowledgeable about maintenance as it affects the day-to-day operation of the development and the PHA as a whole.
  - The manager is the person who is most accessible to the resident. Residents see the manager when they pay rent, report problems, or make requests.
  - The manager must be able to explain maintenance-related issues to the residents, for example:
    - The circumstances and procedures under which maintenance staff will enter a dwelling unit;
    - Reasonable accommodation for persons with disabilities related to inspections, repairs, modification, and maintenance;
    - When a resident can expect maintenance work to be done;
    - Why all work requested cannot be done;
    - Why the resident is assessed maintenance charges for damage beyond normal wear and tear; and
    - What capital improvements the PHA plans.
- The manager must understand how maintenance delivery impacts the financial viability of the development and program as a whole, and how maintenance functions are evaluated under PHAS.

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- Regardless of whether the manager directly oversees maintenance or whether the maintenance function at the PHA is centralized or contracted out, the manager's ability to communicate well on a daily basis with maintenance is essential to manage public housing.
  - Communicating priorities, goals, and standards, determining maintenance needs, quality control, and trouble-shooting and problem-solving maintenance-related issues are all key performance areas.

EFFECT OF MAINTENANCE COSTS

- Maintenance costs, utilities, and salaries are typically the largest line items in a PHA's budget. However, maintenance costs can be held down if:
  - Routine repairs are maintained;
  - Preventive maintenance is performed regularly; and
  - Capital funds are planned for and used judiciously.
- The PHA must develop and implement a maintenance plan which quickly prepares vacant units and responds quickly and fairly to resident requests for repairs.

Good Maintenance Service	**=**	**Satisfied Residents**
Satisfied Residents	**=**	**Fewer Vacancies**
Fewer Vacancies	**=**	**Lower Turnover**
Lower Turnover	**=**	**More Money For Good Maintenance Service**

Notes

MAINTENANCE AND PROJECT-BASED MANAGEMENT

- Under asset management and project-based management (PBM), the delivery of maintenance is a key decision point. For those PHAs with centralized maintenance functions, HUD provides a fee-for-service approach. Thus, maintenance, if centralized, can charge a fee to the development only when maintenance services directly support the development.
  - This fee-for-service approach essentially treats centralized functions as if they were contractors.
  - The fee charged to the development must be based on actual services performed, and must be reasonable.

LOCATING PROBLEM AREAS

- The manager's awareness of a property's condition is related to resident satisfaction. The manager should be proactive in identifying problems before they become major complaints. The manager can detect problems by:

1. Inspections

- The manager should review inspection results to determine maintenance and reporting patterns, and to suggest follow-up.
  - PHAs must perform NSPIRE self-inspections at least annually.
  - The PHA should have an educational program available for residents showing them how to take care of the property.
  - A manager may devise a housekeeping inspection form with areas to note problems and future and preventive maintenance needs.
  - The manager should solicit feedback from social service staff who interact with the residents. These visits often detect a resident's day-to-day needs or unit deficiencies which may be concealed at pre-announced inspections.
  - Walking the site is the fastest way to locate observable problems in their early stages.

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2. Reviewing Work Orders

- The manager should at least review work orders to determine if there is a pattern of problems or to determine if a resident's request has been handled in a timely matter.
- The review of these work orders may also give the manager an indication of whether residents are reporting needed maintenance.
- Some residents may be afraid to report problems for fear of being charged.
- Residents should be encouraged to report problems and should have a clear expectation as to when the work will be performed.

3. Listening to Residents

- If residents can see results after talking with the manager and other staff, they are more likely to continue reporting problems.
- The manager may ask questions such as:
  - Are you satisfied with the service we provide?
  - Is there anything else that needs to be done?
  - Is there anything else you would like to tell me?
- When the resident feels something is wrong, the manager should be the first to hear about it!
- The manager should keep a log of the problems reported and, if possible, should respond to these comments whenever possible. Perhaps a pad of notes with "Thank you for your suggestion" could be used.

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TYPES OF MAINTENANCE

- The manager must ensure the delivery of timely and quality maintenance, regardless of whether they supervise or monitor the work.
- In order to do this, the manager must have a working knowledge of the types of maintenance to be performed, standards of performance, and methods for planning, directing, executing and controlling work.

Custodial Maintenance

- Routine activities geared toward keeping the property clean.
- Custodial maintenance activities are performed on a daily basis and almost never less than once per week. The manager should be directly involved in planning and monitoring the performance of custodial maintenance.
- Custodial maintenance tasks include, but are not limited to:
  - Cleaning the management office.
  - Cleaning building interior common areas.
  - Lawn care.
  - Trash removal.
  - Policing the grounds.
  - Checking for malfunctioning lights within buildings and on site.

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Corrective Maintenance

- Repair of items after problems have been identified. Five categories include:
  - Emergency Maintenance: Maintenance that must be performed immediately to correct life-threatening or severe health and safety deficiencies, or that present a high risk to the physical integrity of the structure (24 hours).
  - Urgent Maintenance: Correction to conditions that present a moderate risk to the health and safety of residents, or the physical integrity of the structure (30 days).
  - Routine or Standard Maintenance: Work order items called in by residents for repair (e.g., crack in the window pane), or deficiencies identified by a REAC NSPIRE inspector that are critical to habitability but do not present a substantive health or safety risk (60 days).
  - Deferred Maintenance: Maintenance that cannot or should not be performed until some later date, or those repairs which are included in the preventive maintenance cycle.
  - Extraordinary Maintenance: Maintenance that represents a capital improvement to the property.
- Corrective maintenance can be performed in response to REAC NSPIRE inspection findings, a service request, or a work order.
- The manager should monitor the performance of corrective maintenance to ensure that NSPIRE standards are followed.

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Notes

Work Priorities

The PHA should establish work order priority. Prioritizing work orders based on time received is not the most efficient or effective way to proceed. The following is a recommended set of priorities:

1. **Emergencies.** Refers to a response to conditions that pose an immediate life-threatening or severe health and safety threat to residents, or to PHA property.
2. **Unit preparation.** Work having to do with making a unit ready for occupancy.
3. **Preventive maintenance.** During unit turnover, preventive maintenance items should be performed and noted in the unit's maintenance file.
4. **Routine.**

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Preventive Maintenance

- Scheduled inspections and services that prevent breakdowns, deterioration, or malfunctions.
- Preventive maintenance is necessary to preserve the physical integrity of the property.
- Preventive maintenance is usually performed in accordance with an established plan or schedule.
- Preventive maintenance is designed to ensure, and possibly increase, the life expectancy of the property's components.
- Preventive maintenance reduces equipment breakdowns and service interruptions.
- Preventive maintenance reduces the number of emergencies by anticipating wear and tear of property, buildings, and equipment.
- Typical preventive maintenance activities may include:
  - Servicing of heating equipment on scheduled basis.
  - Replacing filters.
  - Weather/waterproofing surfaces.
  - Testing and servicing safety and security equipment.

Importance Of Inspections

- The National Standards for the Inspection of Real Estate (NSPIRE) requires that all public housing units in the development be self-inspected by the PHA annually to ensure safe, habitable dwellings that are functionally adequate, operable, and free of health and safety hazards.
  - The PHA must retain results for three years.
  - NSPIRE and its requirements are discussed later in this section.
- Other inspections assist the manager in determining the conditions of each dwelling unit.

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- An inspection can accomplish several things:
  - Establish contact with the resident in the resident's own surroundings, which can lead to more open dialogue.
  - Gain first-hand information on the actual condition of the apartments, buildings, and grounds.
    - Is the resident causing damage beyond normal wear and tear?
    - Is there vandalism or tenant neglect?
    - Is the maintenance department providing quality services?
  - Determine the level of work required to prepare a unit for rental.
  - Determine if the family is abiding by the lease (e.g., unit maintenance, assigned family area maintenance, keeping the unit clean and free from hazards).
  - Help determine if unauthorized persons are residing in the unit.

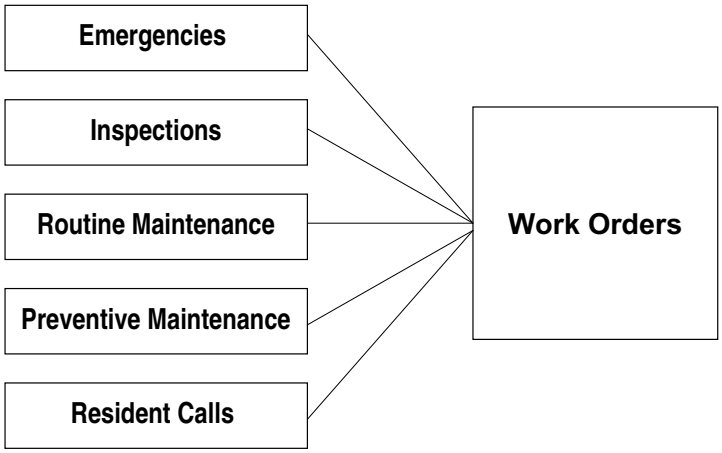
WORK ORDERS

- Under an effective approach, the majority of work should be generated by the maintenance plan and by regular and thorough inspections.
- A good maintenance program begins with the practice of inspecting every unit at least once a year and immediately converting all repairs needed to work orders. A preventive maintenance schedule is the other key element of a good maintenance program.
- A system must be in place for:
  - Receipt and recording of the work order;
  - Classification and prioritization of the work order;
  - Assignment of the work to be performed; and
  - Monitoring the work performed or to be performed.

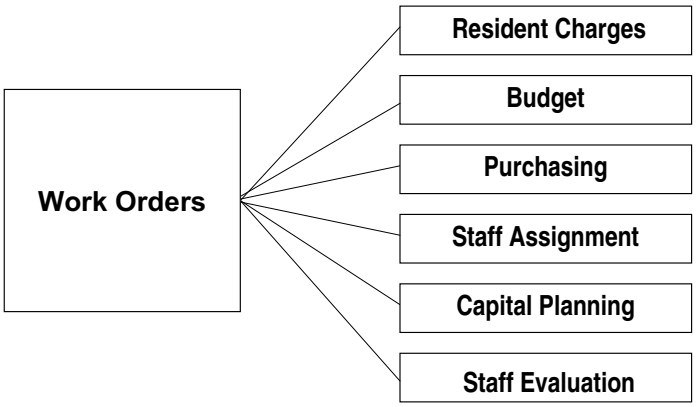
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Notes

- Work orders can originate from the following sources:



- Assignment of work orders should result in follow-up reporting and evaluation. The chart below illustrates the key areas of reporting:



Notes

WORK ORDERS AS A MANAGEMENT SYSTEM

- The maintenance receipt and recording system is known as the maintenance work order system. Such a system usually consists of policies, procedures, and control forms.
- The work order system can be either manual or computerized. A computerized system can provide quicker tracking, simplify inventory control, and generate reports.
- Any responsive maintenance performed should be the direct result of a work order. In some agencies, custodial and preventive maintenance are also performed in accordance with a work order.
- The work order and the work order log are instruments used to plan, assign, control, and monitor the maintenance function.

Work Order Form

- The work orders and work order log are forms for the execution and control of maintenance.
- All service requests should be recorded on a multipart work order form.
- The work order may be either handwritten or computer generated.
- This allows one copy to be retained at the office, one copy to be left with the tenant, one copy for the accounting department, and one copy for the permanent tenant/unit file.

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- Work orders should contain the following information:
  - Name of resident or employee making a request for work
  - Location of the problem (apartment, area of the property)
  - Phone number of party requesting service
  - Date the service request was received
  - Time the service request was received
  - Nature of the problem
  - Category (optional) and priority (required)
  - Permission to enter apartment in tenant's absence
  - Description of work
  - Time spent and materials used for repairs
  - Cost of labor and materials
  - Charges resulting from tenant damage
  - Date and time of assignment to staff
  - Date and time work is completed
  - Initials or signatures of:
    - Person taking service request
    - Person authorizing work
    - Person performing work
    - Person verifying completion of work

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Work Order Log

- All work orders should be recorded in a work order log. The work order log is a system for tracking the status of work orders including emergency and non-emergency classification. The work order log should contain:
  - Work order #
  - Location
  - Work required
  - Category
  - Priority
  - Person assigned to perform work
  - Date/time received
  - Date/time completed
  - Materials used
  - Costs
- The work log can be used to determine the number of work orders issued and completed, average time for completion, and the backlog of uncompleted work orders.
- The log is a valuable tool for monitoring the maintenance function and for planning future capital improvements or maintenance initiatives.

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Notes

- The manager should, on a periodic basis, review the work order log and conduct an analysis of the efficiency and responsiveness of maintenance services to determine:
  - Workload
  - Response time
  - Backlog
  - Trends in types of maintenance problems
  - Evidence of repeated requests
  - Productivity of each employee
  - Materials use
  - Parts life cycle
  - Production of the team (turnaround or vacant unit team)
  - Costing and budgeting information
  - Data required to prepare Capital Fund Plans

RESIDENT-GENERATED VS. MANAGEMENT-GENERATED MAINTENANCE

- PHAs tend to deliver maintenance on a time- and customer-driven basis. Many PHAs have not assessed the percentage of management-generated vs. resident-requested work orders.
  - There are efficiencies and cost savings when the majority of repair work is planned out.
  - The PHA should set a benchmark for the proportion of management-generated vs. resident-generated work orders and monitor each property and the portfolio as a whole.

Notes

MANAGER'S INSPECTION DUTIES

Move-In, Move-Out, and Make-Ready Inspections

- The condition of the apartment should be known by both the resident and management at the time of move-in and move-out.
  - The resident should be informed of regulations pertaining to charges for repairs, termination, and rental agreement expectations.
  - The inspection process provides a record that can be used to compare conditions at the beginning and at the termination of tenancy.
- Move-in and move-out inspections serve other useful purposes:
  - The move-in inspection gives the manager and resident an opportunity to discover any defects so that they may be addressed in a timely fashion.
  - These inspections allow the manager to monitor unit turnover and schedule rental of a vacated unit.
- The manager and new resident should conduct the move-in inspection together using an inspection form.
  - Both the new resident and manager should sign the form and a copy of the completed form should be left with the manager.
  - The form should indicate any deficiencies which need to be corrected before the tenant moves into the unit.
- The move-out inspection should also be conducted, whenever possible, by the manager and the tenant.
  - The completed move-out inspection form should be compared to the original move-in inspection form to determine if there are any tenant-caused damages.
  - The form should indicate any deficiencies needing to be corrected prior to the next rental, should be communicated to maintenance.

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- The manager may conduct one additional inspection (known as a make-ready inspection) after maintenance turns the unit over for lease-up. Ideally, the unit should be free of all defects when viewed for the first time by a new tenant.

National Standards for the Inspection of Real Estate

- The National Standards for the Inspection of Real Estate (NSPIRE) is a physical inspection model to inspect HUD-assisted housing developed by HUD's Real Estate Assessment Center (REAC).
  - NSPIRE replaced the Uniform Physical Condition Standards (UPCS) as the required inspection model for public housing on 7/1/23.
  - NSPIRE places a greater emphasis on deficiencies occurring in the unit, and on health, safety, and functionality defects, and less emphasis on areas where residents spend less time, condition and appearance defects, and non-health and safety items.
- HUD implemented NSPIRE to ensure:
  - All residents live in safe and habitable dwellings.
  - The components located inside the building, outside the building, and within the units are functionally adequate, operable, and free of health and safety hazards.
- NSPIRE does not supersede or state and local code, law, or regulation.
  - Such as fire, mechanical, plumbing, carbon monoxide, property maintenance, or residential code requirements.
- There are three types of inspections under NSPIRE:
  - Self-inspections, which are conducted by the PHA once a year for all units.
  - NSPIRE inspections, which are conducted by REAC contract inspectors every one to three years for a sample of units.
  - NSPIRE Plus inspections, which are conducted by HUD federal inspectors or triggered by poor conditions with the highest sample rate.

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Notes

- For self-inspections, all units in the development must be inspected annually.
  - The PHA must retain the results for three years.
  - Self-inspections are not scored, but provide additional data to REAC between inspections.
  - The timing of self-inspections is not specified in the regulations-they may be done in conjunction with annual reexams or at the conclusion of the REAC NSPIRE inspection.
  - As part of the self-inspection process, PHAs must ensure deficiencies previously cited and report as part of an NSPIRE inspection have not subsequently failed.
- The information gathered from the annual self-inspection may be routed into three places:
  - Maintenance work orders
  - Inventory control system
  - Physical needs assessment
- For NSPIRE inspections, REAC conducts inspections of a random sample of a maximum of 32 units selected by the NSPIRE app, plus up to five additional units recommended by the resident council or tenant organization.
  - NSPIRE inspections are part of a PHA's Public Housing Assessment System (PHAS) score and carry the largest point value of any indicator.
  - Tenant-selected units are not be part of the PHA's score (unless they overlap with the official sample), but the PHA will be required to repair any identified deficiencies.
  - NSPIRE inspectors are HUD contractors certified to conduct inspections of HUD properties.
  - A property representative must escort the NSPIRE inspector during the inspection.
  - Notice PIH 2023-16 describes the administrative procedures before, during, and after the NSPIRE inspection.

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- The frequency of NSPIRE inspections depends on the date of the last inspection, the number of public housing units, and the PHA's PHAS score.
  - During the first year, NSPIRE inspections may occur six months before or after the anniversary date of the last inspection. After the first year, inspections will generally occur up to three months before or after the anniversary date.
  - For PHAs with 250 or more public housing units, NSPIRE inspections will occur every three years for those with a PHAS score at or above 90, every two years for those with a PHAS score of 80-89, and every year for those with a PHAS score under 80.
  - For small PHAs (fewer than 250 public housing units), high performers under PHAS will be assessed every three years, standard or substandard performers every other year, and every year for all other small PHAs, including “troubled” or “Capital Fund troubled.”
  - For small rural PHAs (less than 500 combined public housing and Housing Choice Voucher units), NSPIRE inspections will occur every three years for above 70 unit weighted average physical inspections (the small rural PHAs score).
- The manager must correct life-threatening and severe deficiencies within 24 hours of notification.
  - Within two days, the PHA must electronically certify that items have been corrected and provide supporting evidence.
  - If permanent repair will take longer or is temporary, the PHA must provide a timeframe or target date for HUD approval.
  - There may be interim repairs that remove a hazard even though not permanent. These are acceptable if the full repair is completed within the required timeframe.

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- The full inspection report is provided to the PHA, Field Office, and all residents within 15 days.
  - For properties that score at or above 60, the PHA inspects for deficiencies based on the inspection findings.
  - For properties scoring below 60, the PHA must conduct a survey of the entire project and submit the results to HUD within 60 days.
  - Moderate deficiencies must be corrected within 30 days.
  - Low deficiencies must be corrected within 60 days.
- For all repairs, PHAs should prioritize permanent repairs over quick fixes that may degrade before the next inspection.
- NSPIRE Plus inspections are triggered by poor property conditions.
  - These may or may not require an onsite visit, and may require additional audits, action plans, compliance monitoring, confirmation of work order completion, etc.
- NSPIRE software is used by the NSPIRE (REAC) inspector. While it may be used by the PHA for self-inspections, this is not required.
  - The PHA may still use in-house operating systems or those provided by third-party software vendors.
  - However, using the HUD software allows for better connectivity between HUD and the PHA and promotes consistent inspections.
- If the family is not maintaining the unit in accordance with NSPIRE standards, these conditions should be documented and the resident should be notified in writing of the corrective action to be taken, including the date of a subsequent inspection.
- If it is determined that the resident does not have the physical or mental capacity to maintain the unit without some form of outside assistance, the manager should make a referral to the appropriate social service agency.

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Notes

Points to Remember

- The PHA must conduct self-inspections of every unit annually.
- Deficiencies identified during NSPIRE inspections must be corrected within the required timeframe identified in the standards.
- It does no good to inspect unless there is follow-up to the inspection.
- While PHAs are not required to use NSPIRE software for self-inspections, it has its advantages.

RESPONSE TO EMERGENCIES

Components of the Emergency Response System

- Housing Authorities use a variety of methods to respond to emergency maintenance requests outside regular working hours. Regardless of the method used, common elements of the emergency response system are:
  - Notification system
  - Screening method
  - Response system
  - Corrective action
  - Recording and reporting

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Notification System

- The notification system must provide a way for the resident to communicate the need for emergency maintenance services. The system must be thoroughly understood by residents and staff, have a record-keeping component, and have a mechanism to ensure that emergency requests are received.
- Systems that are used include:
  - Call List - Phone numbers of personnel who respond to emergencies.
    - The call list usually includes instructions to the caller.
    - A PHA must update the phone numbers as needed.
    - The list should be sent to the residents periodically and posted in the management office and community spaces.
    - The list should be sent to emergency services personnel, such as the police and fire departments.
  - Answering Service – An answering service is one phone number for use in reporting after-hour emergencies. The answering service has the responsibility for notifying PHA personnel who are on call.

Screening Systems

- Screening systems are necessary because not every after-hour call is an emergency. Some calls can wait until regular business hours. When in doubt as to the status of a call, it is always best to respond.

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Response System

- The response system used by PHAs will vary. Systems prevalent in the industry include:
  - Skeleton crew at nights and weekends/holidays
  - Rotating personnel on-call
  - Resident maintenance supervisor on 24-hour call
- While emergency services are usually handled by the maintenance staff, there will be occasions when a manager may need to respond. Circumstances in which this situation may arise include fires, floods, or severe wind or rain damage.

Corrective Actions to be Taken in Emergencies

- Corrective actions consist of abatement of emergency and/or repair.
- Abatement alleviates the condition which is presenting an eminent danger to the resident and property. Examples of abatement include:
  - Shutting off water main to stop a major leak or break.
  - Cutting electrical power to a building that is on fire or is flooding.
  - Turning off the gas to a building or unit when there is a fire or a gas leak.
- Abating a problem does not necessarily correct the problem; it only eliminates the hazard. Repair of emergency items is intended to correct the problem.

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Notes

Manager's Responsibility for Emergency Maintenance

- The manager's continuing activities in the emergency response system include:
  - Establishing, reviewing, and testing the emergency response system.
  - Educating residents and staff of emergency classifications.
  - Educating residents and staff of emergency procedures.
  - Responding to emergencies when habitability is in question and determining an appropriate course of action when the unit is rendered uninhabitable.
  - Notification to utility companies when emergency shut offs are necessary.
  - Monitoring the full correction of the problem which gave rise to the emergency.

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Section 3 Property Control

- Property or inventory control is required regardless of the size of the PHA. Equipment and supplies procured must also be accounted for and managed.
- Property control consists of several interrelated responsibilities, including:
  - Accountability
  - Operability
  - Utilization
  - Maintenance
- The user(s) of all items of equipment must be identified and made accountable for the PHA property in their charge.
- PHA equipment and materials are not for the personal use of staff.
- Staff should maintain all equipment in good operating condition.
- It may also be necessary to obtain professional maintenance service. Periodic maintenance will keep expensive equipment (for example, copy machines) operating longer.
- When the cost of an annual maintenance agreement exceeds the value of the equipment to be maintained, it may be time to replace the equipment.
- All equipment should be checked on a regular basis to stay apprised of its condition and location.

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Notes

INVENTORY

- Management and appropriate staff are accountable for all PHA equipment and supplies.
- The Annual Contributions Contract and HUD regulations require that the PHA maintain records of all items of non-expendable equipment.
- The PHA will establish by board resolution the dollar amount for equipment purchases that will be capitalized.
- Even without this contractual and regulatory requirement, the use of inventory records is simply good business.

Nonexpendable Equipment

- A staff member should be designated with the responsibility for setting up and maintaining the necessary inventory records.
- As equipment is purchased, an equipment record card should be established either manually or by computer.
- The record should contain the date of purchase, the cost of the item, the serial number, a description of the item, the development to which it is charged, and its location. The cards should be filed by the development out of which the equipment was purchased.
- The item should be marked with an inventory number. This identifying number may be etched, stamped, taped or stenciled on the item, depending on its construction and use. The first two numbers of the identification number could be the year purchased.

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- This identifier will be entered on the equipment card. The reverse side of the card should be used to indicate when accessories, improvements, or repairs are purchased or added to a major item.
- The inventory record will provide important information for audit purposes and will also help to evaluate the cost effectiveness of continued repair versus replacement of items.
- A physical inventory of all non-expendable or capitalized items is to be made at least annually.
- When physically viewing the item(s), the staff member performing the inventory should note the condition of the item.
- After the physical inventory has been completed, the information should be reconciled to the equipment cards. The location of the items of equipment should be changed on the cards if the item has been moved.
- If the condition of the equipment is obsolete, uneconomical to repair, or non-repairable, the card should be noted and presented to the designated person in accordance with the PHA's Disposition Policy.
- When the equipment is written off (cleared from the equipment records) and properly disposed of, the equipment card should be marked with the date of disposition. The equipment card should be pulled from the card file and retired.
- Cards for equipment disposed of or traded in should be retained as part of the PHA's permanent accounting records.

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Sample Inventory Record Card

Inventory Record

Property		Property	
Description		Make	
		Serial No.	
		Model No.	
Location or Person:		Office:	
Development No.		A/c No. & title	
Date of acquisition:		Vo. No.	

Cost		Vendor	Disposition:
Less disc.			
Net Cost			Date
Trans. chge.			Jo. Vo. No.
Misc. chge.			Method
Total Cost			

Notes

Expendable Equipment and Supplies

- Expendable equipment and/or supplies, though not capitalized, must be accounted for because:
  - Expendable, unaccounted-for items tend to disappear from supply storage
  - The consumption rate of supplies must be known to project future ordering needs (and for future budgets).
- Expendable equipment and supplies should be obtained in the same manner as non-expendable items. Purchase requisitions (if used by the PHA) and purchase orders should be used for the purchase of these items.
- Rather than establishing an equipment card for expendable items or supplies, packing or shipping lists and an approved invoice should be attached and filed. This will serve as the accounting tracking mechanism.
- To record the receipt, issue and consumption of expendable supplies, inventory cards can be made.
- These cards would be kept in either the supply or material bins, and boxes that display the identification of the item, the minimum number to be kept on hand, and the costs of the item.
- A periodic review of the expendable item inventory should be performed. If an item is either seldom used or has not been used in a determined period of time, it would be wise not to maintain such an item in the inventory.
- The review will also provide a clear indication of the usage of all items, as well as aiding in budget projections.
- Accountability for inventory control ultimately resides with the Executive Director, while all other managers, including site managers, share the responsibility.

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Section 4 Capital Improvements

OVERVIEW

- Funding for capital improvements and other modernization activities historically has come to a PHA from HUD in the form of the Comprehensive Improvement Assistance Program (CIAP) or the Comprehensive Grant Program (CGP).
- The Quality Housing and Work Responsibility Act (Reform Act) mandated one funding source for capital (modernization) programs, called the Capital Fund Program (CFP).
- Effective November 25, 2013, the Capital Fund Final Rule further consolidated and streamlined these legacy and modernization programs, including the CGP, CIAP, and the Public Housing Development Program regarding mixed-finance developments into one comprehensive regulation.
- HUD published the Capital Fund Guidebook in April 2016, providing further guidance and details on the uses of the CFP.

KEY COMPONENTS OF CAPITAL FUND

- The PHA is required to present its capital fund submission to the public and its residents and Resident Advisory Board (RAB) concurrent with the public hearing being held on the PHA Annual Plan.
- Includes provision for use of a percentage of annual capital fund appropriations for emergency use.
  - Will be used for emergencies, disasters, and housing needs resulting from settlement of litigation.
- Formula allocation for PHAs is based on relative needs.
  - Measure of the existing modernization needs and accrued needs of housing authorities.

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USE OF CAPITAL OR OPERATING FUNDS BY SMALL PHAS

- A PHA with less than 250 public housing units may use capital or operating funds for capital or operating expenses if:
  - The PHA is not designated as troubled under PHAS; and
  - The PHA operates its public housing units in a safe, clean, and healthy condition as determined by HUD.
- PHAs using this flexible funding authority must retain the necessary accounting to indicate the sources and uses of all funds, including their origination as capital or operating funds.

USE OF CAPITAL AND OPERATING FUNDS BY LARGE PHAS

- A PHA with 250 or more units may use no more than 20 percent of its annual capital fund grant for activities eligible under the operating fund.

USE OF OPERATING FUNDS FOR CAPITAL ACTIVITIES

- Notice PIH 2018-03 allows PHAs the flexibility to use a portion of their operating subsidies for capital activities as well. This funding option was originally authorized under the Housing Opportunities Through Modernization Act of 2016 (HOTMA).
  - Beginning in calendar year (CY) 2018, PHAs may use up to 20 percent of their annual operating subsidy for Capital Fund Program (CFP) activities.
  - HUD will publish the maximum amount of operating subsidy allowable (e.g., 20 percent) for CFP activities towards the end of each funding year.
  - PHAs must follow the requirements set forth in Notice PIH 2018-03. These requirements do not apply to small, non-troubled agencies who are already eligible to use full flexibility between the operating and capital funds. They also do not apply to Moving to Work (MTW) agencies, who had funding flexibility prior to HOTMA.

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ELIGIBLE EXPENSES

- It is important to budget as many eligible items as possible under capital programs because:
  - Adequate funds will then be available for routine maintenance
  - Capital programs can fund large items such as roofs, heaters
  - Capital programs fund extensive modernization projects
  - Capital funds are allocated to small, medium, and large PHAs on a fair-share basis

General Categories

- The following are general categories of expenses eligible for use of the capital fund:
  - Development, financing, and modernization of public housing
  - Vacancy reduction
  - Nonroutine maintenance and replacement of obsolete systems
  - Planned code compliance
  - Management improvements, including training
  - Demolition and reconfiguration
  - Resident relocation
  - Economic self-sufficiency programs for public housing residents
  - Safety and security programs and capital improvements
  - Homeownership activities
  - Capital fund-related legal costs
  - Energy efficiency
  - Administrative costs related to a specific public housing development or modernization project as detailed in the CFP Five-Year Action Plan
  - Annual audit costs attributable to the portion of the audit covering the CFP
  - Capital Fund Program fee
  - Emergency activities
- Specific examples of improvements eligible for capital funding include the following:

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Physical Improvements

- Physical improvements funded under modernization must comply with the mandatory physical standards set forth in the Capital Fund Final Rule and the Capital Fund Guidebook.
- Physical improvements to the properties may include:
  - Correction of immediate emergencies
  - Improvements which ensure long term physical and social viability
  - Energy conservation measures
  - Replacement of equipment
  - Lead-based paint and asbestos testing and abatement
  - Physical accessibility
  - Management, maintenance, and community space improvements
    - Add to tiny community rooms
    - Additional management space
- The PHA cannot execute a construction contract for bid or award until a lead-based paint inspection and, if required, a risk assessment has taken place and any necessary abatement is included in the modernization budget.
  - Includes architecture and engineering contracts.
  - Includes force account work.
  - Excepted are contracts solely for emergency work.

Management Improvements

- Management improvements can be agency-wide and/or development specific.
  - They must correct management problems and sustain the physical improvement of a development.
  - They must improve the economic climate of the development.
  - Such improvement is necessary to sustain physical improvements.

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- Examples of management improvements include:
  - Development and installation of new operating procedures
    - ACOP, Personnel Policy
  - Maintenance training
  - Program training
  - Purchase of office systems (e.g., computer hardware and software)
  - Meeting and office space
  - Equal opportunity and civil rights training
  - Staff support
  - Staff to coordinate social services
    - Emphasis on resident initiatives
  - Transportation, access to computers for residents
  - Staff to assess economic development opportunities and to develop economic enhancement plans
  - Staff to coordinate resident training
  - Outreach
  - Personnel training
  - Drug elimination activities
    - Security Improvements (not bricks & mortar)
      - Tenant patrol
      - Hire off-duty police

Resident Initiatives

- While resident initiatives are technically considered an aspect of management improvements, the Capital Fund Final Rule and Capital Fund Guidebook tend to treat them as a discrete discipline.
- Eligible for funding in this area are:
  - Employment of and contracting with residents
  - Job training for residents
  - Business development activities for residents
  - Training residents in skills directly related to management
  - Determining feasibility of homeownership for public housing residents
  - Physical and non-physical drug elimination activities

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CAPITAL FUND PROCESS

- The Capital Fund Final Rule decouples capital fund forms from the larger PHA plan submission. PHAs now submit their capital fund requirements with the ACC amendment.
  - Submission requirements apply to qualified and non-qualified PHAs.
- An annual public hearing is required. The final rule allows PHAs to hold one public hearing for both the capital fund and the PHA plan.

Notes

Section 5 Security

- Violent criminal activity and drug-related activities are always a concern for PHAs when they occur on or near PHA properties. No matter what strategy PHAs may develop in addressing these problems, the relationship between the manager and the residents is a most critical element.
- Managers who have established open lines of communication with residents will be better able to identify residents who are involved in such activities.
- PHAs should develop their drug and crime prevention strategies in conjunction with local law enforcement officials.
- PHAs should incorporate the appropriate language pertaining to termination of tenancy for drug and criminal activities in the dwelling lease agreement.
- There are various ways to fund security and drug elimination activities.
    - Security may be funded through the operating budgets of the PHA developments.
    - Capital funds can be used for physical improvements that enhance the security of the property, and certain drug elimination activities. However, salaries and benefits for security guards or ongoing security services are not eligible expenses.
    - Non-monetary sources such as community based civic organizations, youth groups, recreational groups, and local service groups are often willing to assist in crime and drug prevention activities.

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TYPES OF CRIME

- Drug-related and violent crime can take many forms and affect the most vulnerable in public housing families:
  - Illegal drug use by residents
  - Illegal drug sales to residents and by residents
  - Drug-related and violent crimes perpetrated against residents
  - Lack of financial resources to care for children due to illegal drug use (poor nutrition, lack of appropriate clothing, leaving children alone without care, etc.)
    - Loss of resident's property and criminal damage to resident's property as a result of drug-related and violent crime
    - Loss of surrounding neighbor's property and criminal damage to surrounding neighbor's property as a result of drug-related and violent crime
  - Child neglect and abuse as a result of parental use of illegal drugs or alcohol
  - Gang activity, intimidation, crime, and recruitment of young residents
  - Domestic abuse and violence as a result of illegal drug use
  - Lack of school attendance, poor performance in school, and a higher than average school drop-out rate due to adverse influences of drug-related and violent crime
  - Failure of family relationships as a result of drug-related and violent crime
  - Loss of home through eviction action as a result of drug-related and violent criminal acts
  - Loss of life due to drug-related and violent crime
  - PHA costs related to vandalism as a result of drug-related and violent crime

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Gun Violence

- According to statistics for 2020, gun violence is on the increase across the nation. A report from John Hopkins Bloomberg School of Public Health states: "While gun violence knows no boundaries, neighborhoods where poverty is most concentrated bear the largest brunt of gun homicide, crime, and associated trauma. African-American children and teens are 14 times more likely than white children and teens of the same age to die by gun homicide."
- Damage caused by gun violence can be caused by accidental shootings and unintended weapon discharges.
- Often, children exposed to gun violence present symptoms of post-traumatic stress disorder similar to those observed in children exposed to war and major disasters.

Hate Crimes

- Law enforcement agencies, government agencies, and reporting groups use a number of guidelines to determine if a crime is defined as a hate crime.
- The number of organized hate groups in the United States increased 20 percent in 2005, according to the Southern Poverty Law Center. Increases in the number of such groups peaked in 2015 with a drop of 11 percent from 2015 to 2020. However, the FBI reported an increase in hate-based murders in 2019, more than doubling from the previous year.
    - Some examples of organized hate groups are internet hate groups, anti-Semitic hate groups (including holocaust denial groups, neo-nazi skinheads), Ku Klux Klan, "church" movement hate groups, and homophobic hate groups.

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Vandalism

- The major areas of vandalism related or attributable to drug-related criminal acts include:
  1. The breaking of exterior lights and exterior entry doors
  2. The disconnection/cutting of electrical wiring to exterior lights
  3. Actual damage to light poles that support exterior light fixtures (i.e., knocking them over with vehicles intentionally)
  4. Shooting out exterior light fixtures
  5. Shooting buildings where gang members or other residents live
  6. Shooting out and breaking out windows where gang members or other residents live
  7. Graffiti on buildings (gang signs, threats, etc.)
  8. Vacant units broken into for use as “drug party houses” on weekends
  9. Vacant units broken into and damaged, spray painted, etc. by gang members
  10. Damage to vehicles
  11. Damage to the property of residents.
- Like a garden, the weeds must be eliminated to create a healthy environment for desired crops to grow.

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SECURITY: A MANAGEMENT AND RESIDENT TEAM EFFORT

- The manager should discuss security issues with residents on an ongoing basis and provide information and awareness training to residents. Managers should try to involve local law enforcement in this long-term effort.
- Suggestions for a security training program include:
  - Personal protection measures.
  - Securing the home.
  - Safety latchkey program for latchkey children.
  - Personal safety on the streets.
  - Reporting on observations of suspicious activity.
  - Procedures for reporting emergencies.
  - House rules to enhance security.
- The manager can contribute to the overall security of the property by demonstrating an active interest and performing certain functions.
  - Inspect units, buildings, and grounds on a regular basis.
  - Test active security devices and equipment regularly.
  - Observe and interact with security personnel in the performance of their duties.
  - Include the discussion of security issues in meetings with residents to solicit comments, and to reinforce their involvement.
  - Inform and emphasize to residents the lease provisions which pertain to unauthorized visitors, drug and criminal activities, and responsibility for behavior of guests while on the premises.
  - Enforce the lease and eviction policy.
  - Network with local law enforcement officials and cooperate with them to enlist their aid and support.
  - Report any apparent deficiencies in security measures immediately to the appropriate entity and follow up to assure that corrective actions have been taken.

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STRATEGIES FOR REDUCING CRIME IN PUBLIC HOUSING

Target Offenders

- Targeting offenders is a deterrence strategy.
- An example in public housing is going after drug dealers or gang members.
- Criminal justice research shows that approximately 60% of crimes are committed by 10% of the offenders.

Target Victims to Prevent their Victimization

- Educating potential or profiled future victims is a crime prevention tactic.
- In public housing, this means educating women and the elderly about ways to avoid being a victim of domestic violence, rape, burglary, and/or purse snatching.
- For children, prevention can mean offering after school programs and teaching conflict avoidance and refusal skills.

Identify Criminal Targets

- Criminal targets are the objects of crime activity
  - Drugs, money, jewelry, weapons, and electronic equipment are examples.
- Making these targets less accessible, more security, and reducing their exposure is a crime deterrent.
  - Examples in public housing include removing cash from management offices, replacing tokens for coins in vending machines, securing maintenance vehicles each day and removing radios from the vehicles at the end of each day.

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Work with Law Enforcement

- Close partnerships with law enforcement are critical to drug and crime prevention in public housing.
- Community-based policing is an innovative model used in many cities where police have a specific neighborhood and patrol the neighborhood often on foot or bicycle. Police know the families, the youth, who belongs in the neighborhood and who doesn't.
- Also important in law enforcement is educating local judges and magistrates about the mandate to PHAs to promptly evict residents unable or unwilling to live up to the terms of the lease, especially the Screening and Eviction final rule criteria.
    - Holding an educational luncheon, writing an editorial in the local newspaper, or making an appointment with new judges and magistrates to introduce the public housing program are a few examples of strategies by PHAs.

Understand Crime Settings

- The setting of a crime is often like a stage play; if you know the signs, you can deter the play.
    - For example, in one housing authority, a large number of auto repairs taking place on or near public housing was actually a communication system for drug dealing. When the auto hood was up it signalled that the market was open. When the hood went down, it indicated that it was not safe to conduct the deal. When the rear hood was up, it was a sign for the drug dealer to come back in one hour.

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Target Key Times of Crime Operation

- Crimes occur in patterns consistent with human behavior. For example, research shows that the average large PHA often has crime patterns showing the following trend:
  - From 3 am to 5 am, things are generally quiet. From 6 am to 8 am, there is a bounce in frequency.
  - There is another bounce around 10 am to 11 am. Another bounce at lunch time, with a rapidly increasing surge that starts mid-afternoon and continues through close of business.
  - Within one hour after the PHA closes, crime increases rapidly, peaking at 10 pm. Crime stays active until midnight and slows down by 2 am.
- Patrolling and surveillance needs to take these times into account.

Target Key Places of Crime Operation

- Research shows that 50% of the crimes are committed at just 10% of the places available.
- Not all places are suitable for crime.
- Physical improvements to public housing developments are effective.
- Working with the neighborhood convenience store, gas station, etc. on deterring crime is an important partnership.

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Remove Inducements to Crime

- Improve management responsiveness
- Walk around your complexes!
- Pick up garbage promptly
- Remove graffiti within 24 hours
- Provide rapid repair and maintenance to units, buildings, systems, and common areas
- Build and maintain an open communication channel with maintenance staff
- Retain good residents, keep lease-up rate high
- Enforce parking requirements and tow abandoned or inoperable vehicles

Security Issues

- Your PHA may be held liable if PHA employees, residents, or guests at your property are attacked or criminally assaulted, or if their personal property is stolen or destroyed.
- You are not expected to predict crimes at your property, but you are expected to be able to anticipate conditions that may promote crimes and take responsible precautions against them.

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PHYSICAL SECURITY IMPROVEMENTS TO ENHANCE SECURITY

- One quick method of reducing drug use, sales, and drug-related crime, is to take away the safety that individuals feel using or selling illegal drugs or committing other drug-related criminal acts at the sites.
- Physical security enhancements have proven effective in many communities in reducing drug-related crime and are specifically designed to enhance security for the residents.
- Physical security improvements should be coordinated with ongoing modernization activities to maximize effectiveness.
- Criminals prefer to act anonymously and will look for properties where they won't be seen or identified. PHAs can make their properties visible to neighbors and police.
- Taken alone, few of the following crime prevention techniques will have a significant impact. Taken together, they will deter criminals from wanting to move onto the property.

Additional Security Lighting

- Entrances, walkways, parking lots, development perimeters, activity areas, and backyards should be lit.
- Motion or light-sensitive lighting is especially good. Security lights properly installed help eliminate the cover of darkness which invites drug usage, sales, vandalism, and crime.
- Consider having staff visit sites at night to check on lighting visibility, to make certain new lights will not shine directly in windows, to observe specific dark areas where people can hide, etc.

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Security Fencing

- Security fences have two purposes; they help to keep unwanted persons out of a site in general, and they contain criminals when they run from police.
- Fences create a clearly defined common area, semi-private space, and private space for residents.

Landscaping

- Bushes around windows and doorways should be well trimmed and not impair the view of entrances and windows.
- Plants can be used as barriers to ground floor apartment windows (such as pyracantha planted under windows trimmed to just below the windowsill, etc.).

Clearly Posted Addresses

- Large, clearly visible address numbers make it easier for emergency vehicles such as police, fire trucks, and ambulances to locate individual units or buildings.
- If the apartment community consists of several buildings, each building should be identified on at least two sides with large building numbers clearly visible to adjacent parking areas both day and night.

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Doors and Locks

- Every apartment should have a solid-core entrance door with case-hardened steel single-cylinder deadbolt locks, one-inch throw bolts, and corresponding security strike plates.
- These doors should be equipped with 180-degree peepholes. Some PHAs or state codes do not allow single-cylinder deadbolt locks because of the possibility of children being unable to get out of the unit in case of a fire or other emergency.

Windows

- All windows should have window locks that operate properly. “Charlie bar” or other commercial locking devices can be used for sliding doors.
- Something as simple as a stick or broom stick cut off or screw-on clip window lock can be used to allow a window to be fully locked more securely or to allow a window to be partially open without it being fully opened.

Security for Common Areas

- Laundry rooms and storage areas should be locked. Doors which are otherwise locked should not be propped open. There should be control over who enters and leaves the building.

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Graffiti

- Gangs use graffiti to claim their territory, challenge other gangs, and intimidate a neighborhood. Taken alone, graffiti may not appear to be significant, but when coupled with other indicators of criminal activity, it should be a warning sign.
- Graffiti should always be removed as quickly as possible. This will discourage individuals from future graffiti activity because graffiti is not as effective if it is not on view for a long period of time. It is like advertising. It needs to be viewed often for it to be the most effective.

Reconfiguration of Common Areas

- Common areas at some target sites are conducive to drug-related crime as a result of the existing layout and/or the traffic pattern (both foot traffic and vehicle traffic).
- Modifications may include the reconfiguration of parking lots and common areas, the installation of "visitor only" parking areas to reduce the presence of uninvited persons from congregating at the site and reduce drug-related crime, and the installation of speed bumps at several sites to reduce the speed and frequency of traffic by non-residents.

Activity Support

- Legitimate recreational and social activities attract responsible tenants and discourage crime.

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Section 6 Risk Management

BACKGROUND

- Risk management is defined as the process of controlling or reducing risk to acceptable levels.
- Residential real estate management has many risks involved, of which management needs to be aware and try to control.
- Fires, falling, and natural disasters have always been a concern to property managers.
- Now, chemicals in the air and ground, lead in the paint, bacteria in the water, mold in the walls, and more complex regulatory requirements add to the property manager's responsibilities and concerns.
- The civil justice system today imposes more responsibility on owners to make their properties safer and more secure for residents and employees.
    - In the past, the courts' prevailing doctrine was "caveat emptor" (let the buyer beware). Now, in many areas, the courts have broadened the concept of owners' and managers' liability.
        - For example, a manager may be liable if a resident illegally stores or uses an environmentally hazardous substance on the property.

IDENTIFYING RISKS

- Almost all property management risks can be categorized as one of the following:
    - Liability or the legal obligation to do – or refrain from doing – something.
    - Compliance with local, state, and federal regulations and laws.
    - Natural and man-made emergencies and disasters.

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LIABILITY ISSUES IN RESIDENTIAL MANAGEMENT

- Risks represent potential financial losses. The landlord is not immune from liability. Many liability lawsuits are based on claims that the landlord failed to take adequate precautions regarding security or safety.
- Management must make a reasonable effort to provide a safe and secure environment for residents.
- The degree of risk must be considered in determining what constitutes a reasonable effort. Greater risks call for more precautions.
- Some risks may require more urgent scheduling of maintenance repairs than others, such as a ripped stair tread which could be a tripping hazard.
- Review current policies, operating manuals, and emergency manuals to determine whether there are adequate procedures in place to reduce risk.
- Determine whether staff is aware of the existence of the guidance and whether the guidance is being followed. The basic question is whether the liability exceeds the risk.

Methods Of Managing Risk

- There are four approaches your PHA could take in managing risk.
  - Avoidance
  - Retention
  - Control
  - Transfer
- The type of risk will determine what approach the PHA will take.

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Avoidance

- Avoidance of the risk means that you eliminate the risk. If you have playground equipment that may be unsafe without adult supervision, you could avoid the risk by removing the playground equipment.
- This type of solution may not be desired with all risks. In the example of the playground equipment, perhaps there is a greater benefit in keeping playground equipment available. Perhaps there would be a better way to manage this risk.

Retention

- At the opposite end of the risk management continuum from avoidance is retention. In this case, you would accept the risk and do nothing because the chance of it happening is not very high, so the financial loss to the PHA would be minimal.
- In the case of the playground equipment, you may have reasoned that it is unlikely that there would be very young children at the playground without any adult being present, so the chance of accident or injury is not great enough to be of concern.

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Control

- Avoidance and retention are two extreme approaches and often neither will be the desired solution to the risk at hand.
- Controlling risk means to correct or control those specific conditions that pose a risk without taking the more extreme measure of avoiding it all together.
- Continuing with the playground example, using this approach you would alter or replace the playground equipment that poses a hazard to small children with safer equipment. Or you could move the play area for younger children away from the equipment for the older children and post and enforce rules on playground usage. Another solution would be to install a fence with a locking gate around the playground and only unlock it during the day, and only if an adult would be present to supervise.

Transfer

- Transferring the risk means to pass the risk onto an insurance company.
- When you purchase an insurance policy to cover risks the insurance company may require you to take some measures to minimize the risk they are assuming. Thus, transferring the risk often involves controlling the risk also.
- Requiring the policyholder to control the risk reduces the chance that a claim will be filed. However, if a claim is filed, the insurance company will reimburse the policyholder for the loss. This reimbursement may be for the entire loss or it may be for a portion of the loss.

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Risk Management Actions

- Look for potential risks during inspections.
- The agency should have building records that show information for all structural, construction, and all mechanical components.
- The agency should have appropriate insurance records for employees, contractors, and residents.
- The agency should have vehicle records for all vehicles used by the company.
- Consider using outside contracts for maintenance areas with a high liability potential, for example:
  - If your property has complex machinery that requires special equipment or skills to maintain
    - Examples: elevators, washing windows at a high-rise development.
- Implement risk prevention measures.
- Implement safety and security programs.
- Implement standard incident reporting procedures.
  - Be sure staff knows to report all incidents to the proper source in a timely manner.
- Provide education to residents.
- Discuss renters' insurance with residents.
- Collect data for insurance claims.

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PREVENTION

- Prevention is the most effective way to reduce safety risks. Although most risks cannot be totally eliminated, they should be controlled as best as possible.
- Some cost-free ways of reducing risk include:
  - Using safety equipment
  - Not taking shortcuts
  - Reporting problems as soon as they become evident
  - Following directions
- Many agencies have booklets available regarding risk management. Local fire and police departments, insurance companies, and other agencies may have resources.
- Materials for residents should cover safe housekeeping and storage of cleaning supplies, emergency procedures, location of fire and emergency equipment, emergency exits, emergency telephone numbers, as well as basic things such as instructing children not to play with matches.
- Preventive measures should be taken such as educating, monitoring, repairing, and enforcing.

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- A preventive approach includes:
  - Educate everyone who needs to know.
    - Especially populations at higher risk of being victims: the elderly, persons with disabilities, children, women.
    - For children, prevention can mean offering after-school programs and teaching refusal skills.
    - Educating women about ways to avoid being a victim of domestic violence, rape, burglary and/or purse snatching is an effective preventive strategy.
  - Evaluate the habits or conditions that may contribute to risky events.
  - Consider implementing alternative methods to reduce risk or eliminate it altogether.
  - Design and implement a risk reduction program, including a risk prevention checklist, and periodically review prevention efforts.
  - Keep the property in top operating condition.

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UNIT 14 Public Housing Assessment System (PHAS)

HISTORY OF PHAS

- The Public Housing Assessment System (PHAS) is designed to institute a system of accountability to assist the Department of Housing and Urban Development (HUD) in monitoring and evaluating housing authority performance nationwide.
- It is applicable to entities managing public housing units.
- PHAS defines acceptable standards for key areas of public housing management.
- These standards (including maintenance), when met, ensure that the PHA is providing safe and decent housing in good repair to qualified residents.
- The original PHAS was effective beginning with PHAs having a fiscal year end of September 30, 2001.

REVIEW OF PURPOSE AND DEFINITION OF PHAS

- PHAS was designed by HUD to enhance public trust by creating a comprehensive oversight tool that effectively and fairly measures a PHA's public housing program based on standards that are objective and uniform.
- PHAS is a strategic measure of a PHA's essential public housing operations.
- PHAS rewards high performing PHAs.
- At the end of each PHA fiscal year, HUD uses PHAS to monitor how well a PHA succeeded at meeting its established goals and to determine if the PHA's public housing program is well managed and capable of providing structurally sound and functionally adequate housing to qualified residents.

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- The PHA must post its scores and status in appropriate conspicuous and accessible locations in its offices within two weeks of receipt of its final score and status.
- Scores are posted on HUD's website.
- PHAS is not meant to be the sole measure of a housing authority's overall public housing performance. PHAS does not evaluate the compliance of a development or PHA with every HUD-wide or program-specific requirement or objective. Rather, PHAS is a management tool that can identify and address management problems within the public housing program.
  - For example, PHAS does not assess fair housing deficiencies. Only FHEO can issue fair housing findings. Although not specifically evaluated through PHAS, PHAs are responsible for complying with nondiscrimination and equal opportunity requirements.
- PHAS includes four performance indicators, which are used to assess the performance of public housing developments and the portfolio. PHAs receive a score for each of the indicators, then one overall score for the PHA's public housing program, computed by using each of the indicator scores. The overall score will be used to determine the performance designation of the PHA's public housing program.

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THE PHAS INTERIM RULE

- The PHAS Interim Rule became effective on March 25, 2011.
- A new part 902 of the Code of Federal Regulations was established for the PHAS rule (24 CFR Part 902). The interim rule removed 24 CFR 901 and added Part 907, Substantial Default by a Public Housing Agency.
- HUD considerably streamlined the PHAS evaluation process by eliminating the resident satisfaction survey and the PHA management certification.

OVERVIEW OF THE CURRENT PHAS

- The interim rule uses the term "projects" instead of "asset management projects" or "AMPs". Subsequent to the issuance of the interim rule, HUD again changed from using the term "project" to the term "development." The term "development" will be used here instead of AMP or project; a development, as indicated in PIC, may be a single property or a grouping of two or more properties.
- The interim rule is accompanied by four notices that describe the process of issuing scores for each of the PHAS indicators: the physical condition indicator, the financial condition indicator, the management operations indicator, and the capital fund program indicator.

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Notes

Frequency of Assessment (3-2-1)

Small rural PHAs

- Small rural PHAs are PHAs with 550 or fewer combined public housing and Housing Choice Voucher units, and:
  - Has a primary administrative building with a physical address in a rural area,
  - OR
  - More than 50% of its combined units are in rural areas.
- High performers are assessed every 3 years when they have a score of 90% or greater.
- Standard performers are assessed every 3 years when they score 80% - 89% or 70% - 80% and all projects have a score of ≥ 70%.
- Troubled performers are referred to local HUD office and are given a Corrective Action Plan when they score < 70% or 70% - 80% and at least one project receives < 70%.

Small Deregulated PHAs

- PHAs with fewer than 250 public housing units will be assessed under PHAS every third year if they are high performers, every other year if they are standard or substandard performers, and every year if they are overall troubled or troubled under the capital fund indicator.

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Notes

PHAs with 250 units or more

- HUD states that all PHAs, other than small PHAs, "may" be assessed on an annual basis. This presumes HUD's authority to, at HUD's discretion, assess PHAs every year.
- The physical condition score for each development will determine the frequency of inspections of each development, as indicated earlier (HUD refers to this as the 3-2-1 inspection schedule).
  - Developments that score 90 points or higher will be inspected every 3 years; developments that score less than 90 points but at least 80 points will be inspected every 2 years; and developments that score less than 80 points will be inspected annually.
  - Developments for any PHA designated as troubled will be inspected annually regardless of any development's individual score.
- In the baseline year, every PHA received an overall PHAS score in all four of the PHAS indicators. This allowed a baseline for the physical condition and the 3-2-1 inspection schedule, as well as a baseline year for the small deregulated PHAs.

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Notes

PHAS Scoring

- Each PHA will receive an overall PHAS score, based on the four indicators:
  - Physical condition 40 points
  - Financial condition 25 points
  - Management operations 25 points
  - Capital fund program 10 points
- Individual development scores are used to determine a single score for the physical condition, financial condition, and management operations indicators. The capital fund program indicator score is entity-wide.
- The PHAS score will be issued by PIH-REAC for each PHA one month after the PHA submits its year-end financial data.

PHAS Performance Designation

- The performance designation is based on the overall PHAS score and the four indicator scores.
- An agency's overall PHAS grade will be used to place it in one of the following categories:
  - High performer
  - Standard performer
  - Substandard performer
  - Troubled performer

Notes

High Performer

- The definition of a high performer is an overall PHAS score of 90 percent or greater.
  - *And* at least 60 percent of the points available under the physical condition, financial condition, and management operations indicators and at least 50 percent of the points available under the capital fund indicator.
  - Cannot be high performer if it scores below the threshold established above for any indicator.

Standard Performer

- Overall PHAS score of at least 60 percent
  - *And* at least 60 percent of the available points for the physical condition, financial condition, and management operations indicators, and at least 50 percent of the available points for the capital fund indicator.
- Standard performers may be required by the field office to submit, and operate under, a corrective action plan.

Substandard Performer

- Overall PHAS score of at least 60 percent and a score of less than 60 percent under one or more of the physical condition, financial condition, or management operations indicators.
- The PHA will be designated as substandard physical, substandard financial, or substandard management.
- The HUD office with jurisdiction over the PHA will require a corrective action plan if the deficiencies have not already been addressed in a current corrective action plan.

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Notes

Troubled Performer

- Overall score less than 60 percent or if the PHA receives less than 50 percent under the capital fund program indicator.
- HUD will work with a troubled PHA for a maximum of two years.
- The interim rule adds Part 907 to 24 CFR addressing substantial default by a PHA.

Summary of Designations

- PHAs are graded as high, standard, substandard, or troubled performers, as follows:

SCORE	STATUS
90% to 100%	High performer
60% to 89%	Standard
At least 60% overall, but less than 60% under physical, financial, or management indicators	Substandard
0% to 59%, or less than 50% under capital fund	Troubled

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Notes

Basis of Scoring

- Under the interim rule, no scoring is from PHA certifications.
- All data for PHAS scoring is derived from four sources:
  - The HUD-contracted National Standards for the Inspection of Real Estate (NSPIRE) inspection for the physical condition indicator.
  - The PHA's electronically submitted financial data schedule (FDS) for the financial condition indicator and management operations indicator.
    - HUD removed the PHA certification of management operations as a scored element when the interim rule went into effect. An onsite management review may be conducted for diagnostic purposes but is not scored under the interim PHAS.
  - IMS-PIC for occupancy rate under the capital fund indicator.
  - The electronic Line of Credit Control System (eLOCCS) for the capital fund indicator.

Moving to Work (MTW) Agencies

- PHAS does not apply to MTW agencies that are specifically exempted in their grant agreement.
- In most cases, however, the MTW agreements require MTW agencies to submit annual financial information and be subject to the same standards and protocols for physical inspections, management reviews, and capital fund obligation deadlines as non-MTW agencies.

Mixed-Finance Developments

- Mixed-finance developments will continue to be subject to the independent physical inspections.
- Mixed-finance developments will not receive a financial condition or management operations score.

Notes

RESIDENT MANAGEMENT CORPORATIONS AND ALTERNATIVE MANAGEMENT ENTITIES

- PHAS applies to PHAs, resident management corporations (RMCs) and alternative management entities (AMEs).
  - An alternative management entity is a receiver, private contractor, private manager, or any other entity under contract with a PHA to manage all or part of a PHA's operations.
- A PHA is not responsible for developments managed by an RMC that receives funds directly from HUD (DF-RMC). The PHA's PHAS scores will not be based on developments managed by a DF-RMC.
  - RMCs and DF-RMCs will be assessed and issued their own PHAS scores based on the public housing or portions of public housing that they manage and the responsibilities they assume that can be scored under PHAS.
- AMEs are not issued PHAS scores since the performance of an AME contributes to the overall score of the PHA for which the AME assumed management responsibilities.
- Because the PHA and not the RMC or AME is ultimately responsible to HUD under the ACC, the PHAS score of a PHA will be based on all the developments covered by the ACC, including those with management operations assumed by an RMC or AME (including a court-ordered or administrative receivership agreement, if applicable).

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Notes

Section 1 Physical Condition Indicator

- The purpose of this indicator is to evaluate whether developments are providing safe, habitable dwellings, and that the items and components located inside the building, outside the building, and within the units are functionally adequate, operable, and free of health and safety hazards.
- Development physical performance is scored and averaged across the PHA, weighted according to unit count to provide a public housing program score in physical condition.

ASSESSMENT

- HUD-contracted inspectors inspect a statistically valid sample of all public housing units randomly selected by the NSPIRE app, plus up to five additional units recommended by the resident council or tenant organization.
  - Tenant-selected units are not included in the score, but the PHA is required to repair any identified deficiencies.
- Inspectors use hand-held computers using a HUD-designed NSPIRE app.
- REAC will provide a 28-calendar day notice of inspection.
- The PHA must provide notice to all residents.
  - HUD suggests at least seven days' notice through multiple communication methods such as email, text messaging, or notices posted on the community bulletin board, halls, or doors.
- A property representative must escort the inspector during the entire inspection.
- Occupied units that are not dwelling units (such as units used for day care and self-sufficiency) are subject to physical inspection.

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Notes

SCORING

- Deficiencies are scored based on two factors: severity and location. The type and severity of the deficiency dictates whether it impacts resident health and the corresponding timeframe for repair.
- Unit deficiencies are weighted most heavily. For example, a life-threatening deficiency in a unit will lead to the largest deduction while a low deficiency observed outside of the property will lead to the smallest deduction.

DEFECT SEVERITY CATEGORY	INSPECTABLE AREA		
	Outside	**Inside**	**Unit**
Life-threatening	49.6	54.5	60.0
Severe	12.2	13.4	14.8
Moderate	4.5	5.0	5.5
Low	2.0	2.2	2.4

Scoring under NSPIRE

- Under NSPIRE, observed defects are converted into a number score on a 100-point scale.
  - Any score under 60 is failing.
- Regardless of the overall property score, if 30 points or more are deducted due to deficiencies in the Unit inspectable area as a whole (not an individual unit), the property has failed.
- Properties that score 30 or less are automatically referred to the Departmental Enforcement Center (DEC).
  - Properties that receive two successive scores under 60 may be referred.

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Notes

Scoring Methodology

- The 100 point scale is converted to 40 points maximum under PHAS.
  - The passing score of at least 60 would come out to 24 points.
- Unlike scoring under the Uniform Physical Condition Standards (UPCS), there are no criticality levels under NSPIRE. Deficiencies are scored based on two factors: severity and location:
  - The type and severity of the deficiency dictates whether it impacts resident health and the corresponding timeframe for repair.
  - Unit deficiencies are weighted most heavily.
- The weight of the deduction changes depending on the location and the severity.
  - A life-threatening deficiency inside a unit will lead to the largest deduction.
  - A low deficiency observed in the “outside” area of the property will lead to the smallest deduction.
- HUD will not score smoke alarm or carbon monoxide detector (CO) defects.
  - An **asterisk (*)** is added to the numerical property score for smoke detector defects.
  - A **plus sign (+)** is added for CO detector defects.
  - While not scored, these deficiencies must still be corrected within 24 hours.
- Under UPCS, HUD provided a letter designation (a, b, c) to indicate the presence of exigent health and safety defects. NSPIRE does not use letter designations and instead provides a summary table of the defect observations by Defect Severity Category.

Notes

- Technical reviews allow PHAs to have points restored for verifiable reasons, including:
  - HUD or inspector error
  - Adverse conditions beyond the PHA's control
  - Modernization work in progress
  - Conflicts with state or local code
- The PHA has 45 calendar days from the date HUD provides the inspection report to file a request for a technical review.
- REAC will issue a draft inspection report with a preliminary score and a recordation of all defects.
- HUD will issue a final inspection report with a final score and a recordation of all defects following the appeals process.
- HUD publishes the PHA's score electronically.
- For 60 days, the PHA must make the physical inspection report and all related documents available to residents during regular business hours upon reasonable request for review and copying.

Notes

Section 2 Financial Condition Indicator

DESCRIPTION AND PURPOSE

- The objective of this indicator is to measure the financial condition of each development within the portfolio for the purpose of evaluating whether there are sufficient financial resources to support housing that is safe, habitable, functionally adequate, operable, and free of health and safety hazards.
  - The PHA's financial condition will be assessed by measuring the combined performance of all public housing developments on the basis of the annual financial report.
- To reflect the shift from a PHA-wide based assessment to one that is property based, HUD assesses the financial condition of developments.
  - Development financial performance is scored and averaged across the PHA, weighted according to unit count. The developments within the PHA will be evaluated and scored based on the development's performance relative to industry standards.

ASSESSMENT

- There are three financial condition subindicators that will examine the financial condition of each development.
  - Quick Ratio (QR)
  - Months Expendable Net Assets Ratio (MENAR)
  - Debt Service Coverage Ratio (DSCR)
- The values of the three subindicators are derived from the financial data schedule (FDS) submitted by the PHA.
- Unaudited financial information must be submitted to HUD annually, no later than 2 months after the PHA's fiscal year end (FYE).

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Notes

- Audited financial information is required within 9 months after the PHA's FYE.
  - In addition, the PHA must submit one copy of the completed audit report package and the Management Letter issued by the independent auditor to the local HUD field office having jurisdiction over the PHA.

QUICK RATIO (QR)

- Measures the development's ability to cover its near-term obligations.
- This is a measure of *liquidity*; it indicates whether a development could meet all current liabilities if they became immediately due and payable.
  - A development should have available current resources equal to or greater than its current liabilities in order to be considered financially liquid.
  - Maintaining sufficient liquidity is essential for the financial health of an individual development.
- The quick ratio compares quick assets to current liabilities
  - Quick assets are cash and assets that are easily convertible to cash and do not include inventory.
  - Current liabilities are those liabilities that are due within the next 12 months.
- QR is measured by dividing adjusted unrestricted current assets by current liabilities.

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Notes

MONTHS EXPENDABLE NET ASSETS RATIO (MENAR)

- Measures a development's ability to operate using its net available unrestricted resources without relying on additional funding.
- This is a measure of viability, or adequacy of reserves at the development.
- This ratio compares the adjusted net available unrestricted resources to the average monthly operating expenses. The result of this calculation shows how many months of operating expenses can be covered with currently available unrestricted resources.
- To calculate MENAR:
  1. Calculate the development's unrestricted cash, cash equivalents, and current receivables (numerator).
  2. Calculate the development's average monthly operating and other expenses (denominator).
- This financial subindicator helps the PHA and HUD understand how vulnerable a development is to changes in income and expenses.

DEBT SERVICE COVERAGE RATIO (DSCR)

- This subindicator is a measure of a development's ability to meet its regular debt obligations.
- Indicates whether the development has generated enough income from operations to meet annual interest and principal payments on long-term debt service obligations.
- This subindicator is used if the development has taken on long-term debt.
- The DSCR is the ratio of net operating income available to make debt payments, to the amount of the debt payments.
- Calculated by dividing adjusted operating income by the development's annual debt service payments.

Notes

ADDITIONAL COMPONENTS

- Additional components may be used to identify a possible higher risk of fraud and abuse.
- These components will be used to generate "flags" that will signal field staff, Enforcement Center staff, or fraud investigators.

OVERVIEW OF SCORING

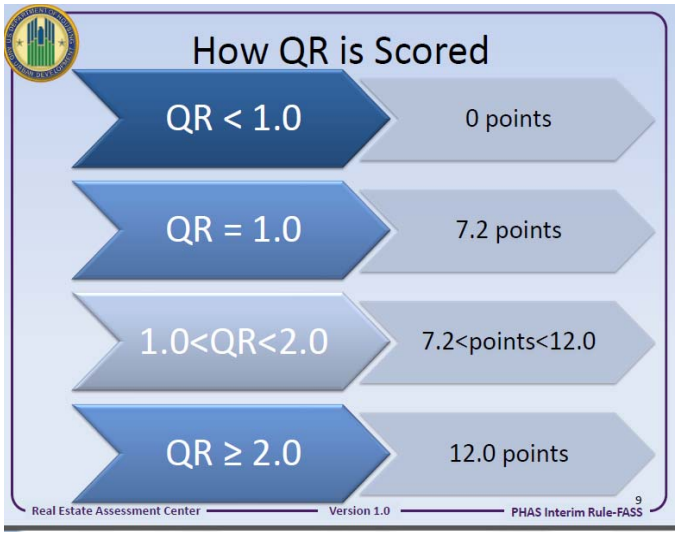
- 25 points maximum.
- In order to receive a passing score under the financial condition indicator, the PHA's score must be at least 15 points or 60 percent of the available points.
- A PHA that receives fewer than 15 points under this indicator will be a substandard financial condition agency.
- Property managers can have the greatest impact on this indicator score by collecting rents and filling vacancies.

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Notes

SUBINDICATOR #1: QUICK RATIO (QR)

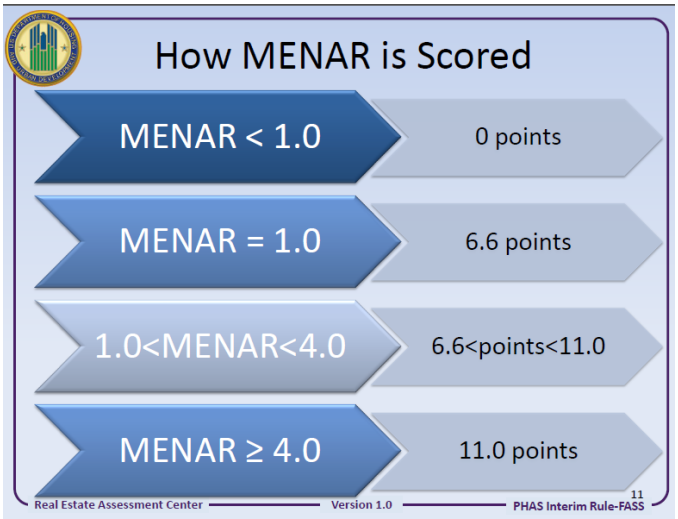
- A development will receive zero points when its QR is less than 1.0.
- If its QR equals 1.0, the development will receive 7.2 points.
- If its QR is greater than 1.0 and less than 2.0, it will receive greater than 7.2 points but less than 12.0 points, on a proportional basis.
- A development will receive the maximum of 12.0 points when its QR is equal to or greater than 2.0



Notes

SUBINDICATOR #2: MONTHS EXPENDABLE NET ASSETS RATIO (MENAR)

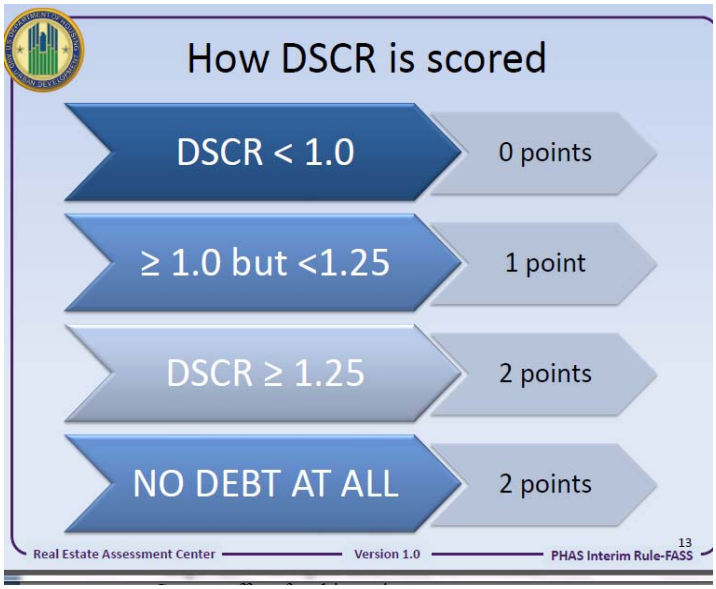
- A development will receive zero points when its MENAR is less than 1.0.
- If its MENAR equals 1.0, the development will receive 6.6 points.
- If its MENAR is greater than 1.0 and less than 4.0, it will receive greater than 6.6 points but less than 11.0 points, on a proportional basis.
- A development will receive the maximum of 11.0 points when its MENAR is equal to or greater than 4.0



Notes

SUBINDICATOR #3: DEBT SERVICE COVERAGE RATIO (DSCR)

- A development will receive zero points when its DSCR ratio is less than 1.0.
- If its DSCR equals at least 1.0 but less than 1.25, it will receive 1 point.
- A development will receive the maximum of 2.0 points if its DSCR is equal to or greater than 1.25 or if it has no debt at all.



Notes

SUMMARY OF SCORING

#2 FINANCIAL CONDITION	25
Quick Ratio (liquidity)	12.0
Months Expendable Net Assets Ratio (adequacy of reserves)	11.0
Debt Service Coverage Ratio	2.0
Flags:	
No audit opinion (minus 25 pts)	
Going concern opinion(*)	
Disclaimer of opinion (minus 25 pts)	
Material weakness/internal control(*)	
Adverse opinion (minus 25 pts)	
Qualified opinion(*)	
Reportable conditions(*)	
Findings of non-compliance and questioned costs(*)	
Indicator outlier analyses(*)	
(*) Points will be deducted to the extent points remain after initial scoring for the sub-indicator affected by the flag	

Notes

Section 3 Management Operations Indicator

DESCRIPTION AND PURPOSE

- The objective of this indicator is to measure the PHA's performance of management operations through the management performance of each development.
- All public housing developments will be assessed under management operations, even if a PHA has not converted to asset management.
  - Mixed-finance developments are excluded from the management operations indicator.
- PHA certification on form HUD-50072 was eliminated when the interim rule became effective.
- The interim rule establishes the management review as a diagnostic and feedback tool.
  - HUD regards the onsite management review as "critical to its task of effective oversight of the public housing portfolio, as is the case in multifamily housing."
  - Management reviews will be used for both compliance (not scored, but could generate findings and required actions), and as a diagnostic instrument.
- Under the interim rule, the values of the indicators will be derived from the PHA's annual Financial Data Schedule (FDS).

ASSESSMENT

- The following subindicators will be used to assess the management operations of developments and PHAs. Individual development scores for management operations, as well as overall PHA management operations scores, will be issued for:
  - #1 Occupancy
  - #2 Tenant Accounts Receivable
  - #3 Accounts Payable

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Notes

SUBINDICATOR #1 – OCCUPANCY

- This subindicator measures the occupancy for the development's fiscal year, adjusted for allowable vacancies.
- Occupancy rate is calculated by dividing unit months leased (UML) by unit months available (UMA).

EXEMPTED UNITS

- The development's occupancy rate is adjusted for allowable vacancies. These units are not considered available for occupancy during the assessment year. These dwelling units also receive operating subsidy.
- Vacant units are exempt for each unit month the units meet one of the following HUD-approved vacancies.

Vacant Units Undergoing Modernization

- Funded by Capital Fund, HOPE VI.
- Vacancies resulting from development modernization or unit modernization (such as work necessary to reoccupy vacant units) provided that one of the following conditions is met:
  - The unit is undergoing modernization (i.e., the modernization contract has been awarded or force account work has started) and must be vacant to perform the work, and the construction is on schedule according to a HUD-approved PHA Annual Plan; or
  - The unit must be vacant to perform the work and the treatment of the vacant unit is included in a HUD-approved PHA Annual Plan, but the time period for placing the unit under construction has not yet expired. The PHA must place the vacant unit under construction within two federal fiscal years (FFYs) after the FFY in which the capital funds are approved.
    - Days that units are kept vacant for use as a relocation resource are not eligible for exemption as vacancy days.

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Notes

- The vacancy days accruing prior to the unit being included in the HUD-approved modernization budget and the days accruing after the unit has been turned over by the contractor are not exempted in the adjusted occupancy rate calculations.

Special Use Units

- Units approved and used for resident services, resident organization offices, and related activities, such as self-sufficiency and anti-crime initiatives.

Outside the Control of the PHA

- On a development-by-development basis, subject to prior HUD approval and for the time period agreed to by HUD, there are vacancies categorized as outside the control of the PHA. The development's occupancy rate is adjusted for allowable vacancies. The allowable vacancies for which a PHA receives operating subsidy and for which occupancy rate is adjusted are as follows.

Litigation

- Court order or settlement agreement that is legally enforceable.
  - Example: A judge has ruled that a unit is off limits due to a police investigation.
  - Example: A judge has ruled that a unit is off limits due to a pending estate dispute.
- Units that are vacant in order to meet regulatory and statutory requirements to avoid potential litigation (as covered in a HUD-approved PHA Annual Plan).
- Units under voluntary compliance agreements with HUD or other voluntary compliance agreements acceptable to HUD (e.g., units that are being held vacant as part of a court order, HUD-approved desegregation plan, or voluntary compliance agreement requiring modifications to the units to make them accessible per 24 CFR Part 8).

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Notes

Disasters

- Units that are vacant due to a federally declared, state declared, or other declared disaster.
  - Examples: Earthquakes, hurricanes, tornadoes, other declared disasters

Casualty Losses

- Damaged units that remain vacant due to delays in settling insurance claims.
  - The number of exempt days begins from the date of occurrence or the date the units were vacated (whichever is later) until the funds (in whole or part) are received to repair the unit(s).
    - Many PHAs choose to start repair work before the insurance settlement check is received.

State or Local Law

- While not articulated in 24 CFR 990.145, if a state or local law is more protective, it will apply.
  - For example, some state laws require that if a family skips, the landlord must keep the unit intact and locked for 30 days before taking possession and making ready for occupancy.

Notes

SUBINDICATOR #2 – TENANT ACCOUNTS RECEIVABLE

- This subindicator measures the tenant accounts receivable of a development against the tenant charges for the development's fiscal year.
- Charges include rents and other charges to tenants, such as court costs, maintenance costs, etc.
- Measures PHA's ability to collect its tenant receivables in a timely manner.
- Assesses the average number of days receivables are outstanding.
- It is an "aging receivable indicator."
- It is recommended that PHAs establish an "Aging Receivables" tracking system to indicate past due periods of less than 90 days, 90-180 days, and 180+ days outstanding.
- Tenant accounts receivable is calculated by dividing accounts receivable by the net tenant revenue.

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Notes

SUBINDICATOR #3 – ACCOUNTS PAYABLE

- This subindicator measures the money that a development owes to vendors at the end of the development's fiscal year for products and services purchased on credit against total operating expenses.
- HUD believes that the inclusion of accounts payable in the PHAS management operations score properly reflects effective property management practices.
  - HUD stated in the interim rule that it is a management responsibility to arrange for vendor services, monitor the work, and make payment. These arrangements are fundamental to a multifamily real estate business.
  - A surplus of accounts payable is generally recognized in the property management industry as a prime indicator of a potentially or actually troubled property.
- A well-managed property or PHA should already be tracking accounts payable.
- Accounts payable calculation is the current accounts payable (less than 90 days) plus the past due accounts, divided by average monthly operating expenses.

Notes

MANAGEMENT OPERATIONS SCORING

Scoring of Occupancy Rate

- 16 points maximum.
- If the development has an occupancy rate of 98 percent or above, the development will receive 16 points.
- If the development has an occupancy rate of less than 98 percent, but equal to or greater than 96 percent, the development will receive 12 points.
- If the development has an occupancy rate of less than 96 percent, but equal to or greater than 94 percent, the development will receive 8 points.
- If the development has an occupancy rate of less than 94 percent, but equal to or greater than 92 percent, the development will receive 4 points.
- If the development has an occupancy rate of less than 92 percent, but equal to or greater than 90 percent, the development will receive 1 point.
- If the development has an occupancy rate of less than 90 percent, the development will receive zero points.

Scoring of Tenant Accounts Receivable

- 5 points maximum.
- If the development has tenant accounts receivable of less than 1.5, the development will receive 5 points.
- If the development has tenant accounts receivable of 1.5 or greater, but less than 2.5, the development will receive 2 points.
- If the development has tenant accounts receivable of equal to or greater than 2.5, the development will receive zero points.

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Notes

Scoring of Accounts Payable

- 4 points maximum.
- If the development has accounts payable of less than .75, the development will receive 4 points.
- If the development has accounts payable of .75 or greater, but less than 1.5, the development will receive 2 points.
- If the development has accounts payable of equal to or greater than 1.5, the development will receive zero points.

Overall Management Operations Scoring

- 25 points maximum.
- In order to receive a passing score under the management operations indicator, the PHA's score must fall at or above 15 points, or 60% of the available points under Indicator #3.
- Subindicators:

Occupancy Rate	16 points
Tenant Accounts Receivable	5 points
Accounts Payable	4 points

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Notes

Section 4 Capital Fund Indicator

DESCRIPTION AND PURPOSE

- The purpose of this indicator is to examine the period of time it takes a PHA to obligate capital fund program funds and to occupy units:
  - To ensure that the PHA obligates 90 percent or more of its funds as quickly as possible, but no later than 2 years after funds become available.
  - To modernize/develop public housing units and improve overall occupancy.
- Funds from the capital fund program under this section do not include HOPE VI program funds.
- The capital fund indicator does not apply for PHAs that choose not to participate in the capital fund program of the 1937 Act.
- This indicator applies on a PHA-wide basis and not to individual developments.

SUBINDICATORS

- The two subindicators of the capital fund program indicator are:
  - Timeliness of fund obligation; and
  - The PHA's occupancy rate.

Notes

SUBINDICATOR #1: TIMELINESS OF FUND OBLIGATION

- Examines the period of time it takes for a PHA to obligate funds from the capital fund program under the 1937 Housing Act.
- The timeline for obligation of funds is statutory in the 1937 Act.
  - HUD may extend the period of time for the obligation of funds in accordance with the 1937 Act.
- Capital Fund Financing Program (CFFP) amounts are treated as "obligated" upon approval and closing of the financing.

SUBINDICATOR #2: OCCUPANCY RATE

- Measures the PHA's occupancy rate at the end of the PHA's fiscal year.
- HUD believes that success in addressing capital needs will be reflected in higher occupancy rates.
  - HUD stated in the interim rule that expenditure of capital funds is not necessarily a good measure of how well the funds are being used for capital expenditures, and thus the indicator now considers occupancy.
- Occupancy rate is calculated by dividing the total occupied assisted, HUD approved special use, and non-assisted units by the total ACC units less the total uninhabitable units as reflected in the Inventory Management System-PIC, or its successor.
  - This information will be calculated as of the end of the PHA's fiscal year.

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Notes

CAPITAL FUND PERFORMANCE STANDARDS

OVERVIEW

- Maximum 10 points
  - Threshold score for this indicator must be at least 5 points, or 50% of maximum number of 10 points.
  - A PHA that receives less than 50 percent, or five points, under the capital fund program indicator *will be designated as a capital fund troubled performer*.
  - HUD awards capital fund program bonus funds according to the PHA's PHAS score. This procedure was not modified by the interim rule.

# CAPITAL FUND	10
Timeliness of Fund Obligation	5.0
Occupancy Rate	5.0

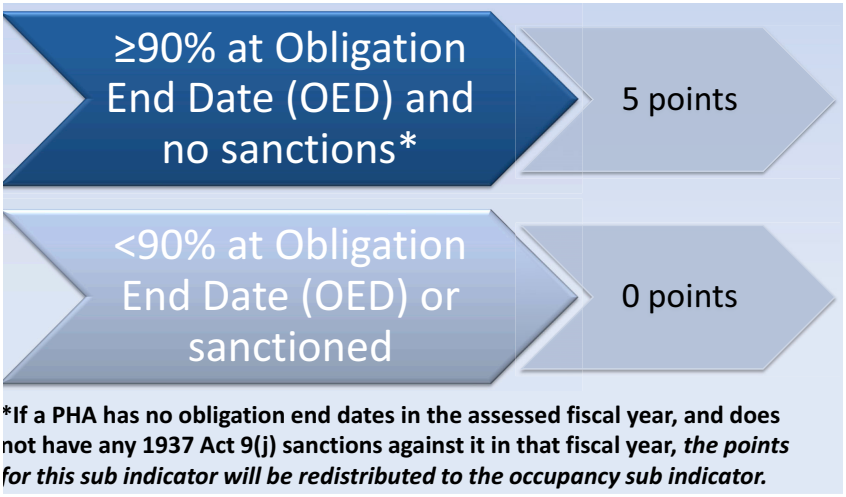
TIMELINESS OF FUND OBLIGATION

- The PHA will earn the full 5 points if it has obligated 90 percent or more of the grant amount for all its grants on its obligation end date, or on the extended obligation end date, for all open capital fund program grants that have obligation end dates during the assessed fiscal year.
  - And does not have any grants that have been sanctioned during the assessed fiscal year.
- The PHA will earn 0 points if it has obligated less than 90 percent of the grant amount for any of its open grants on the obligation end date during the assessed fiscal year or is undergoing sanctions per the interim rule.

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Notes

- If the PHA receives 0 points for this subindicator, it is not eligible for points under subindicator #2.



If a PHA has no obligation end dates in the assessed fiscal year, and does not have any 1937 Act 9(j) sanctions against it in that fiscal year, *the points for this sub indicator will be redistributed to the occupancy sub indicator.

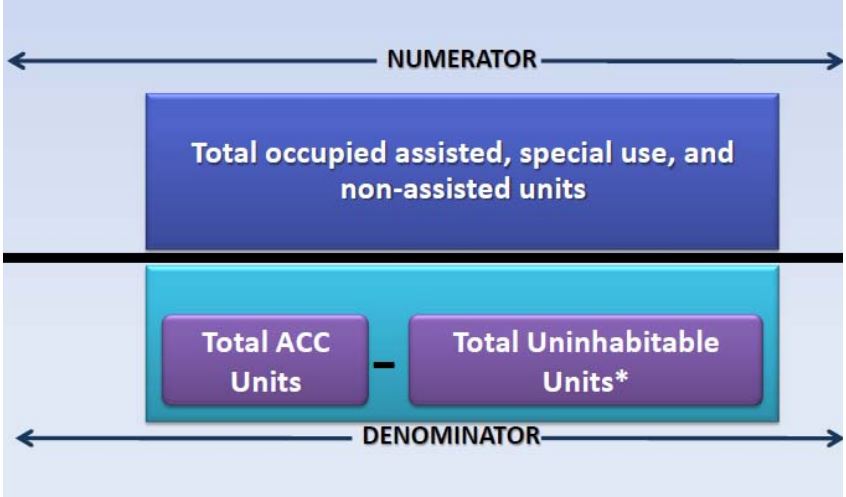
Occupancy Rate

- A PHA will receive 5 points if it has an adjusted occupancy rate of 96 percent or more.
- The PHA will receive 2 points if it has an adjusted occupancy rate of at least 93 percent but less than 96 percent.
- Again, occupancy rate is scored only if a PHA scores 5 points on the first subindicator.



Notes

Occupancy Rate Computation



- As reflected in IMS-PIC

ELEMENTS OF SCORING

Method of Assessment

- Uses data obtained through:
  - Analysis of obligated amounts in HUD's eLOCCS (or its successor) for all capital fund program grants that were open during the assessed fiscal year; and
    - eLOCSS is HUD's electronic Line of Credit Control System
  - IMS-PIC (or its successor) data as of the PHA's assessed FYE.
- Scores are first calculated in each subindicator. From the two subindicator scores, an indicator score is then calculated.
- Other aspects of the capital fund program will be monitored by HUD through other types of reviews.

SUMMARY OF PHAS INDICATORS

Indicator Number	Indicator/Component Title	Points Possible
1	Physical Condition	40
2	Financial Condition	25
3	Management Operations	25
4	Capital Fund Program	10

Approximate Relative Weights/Points

Indicator/Sub-Indicator/Component	Indc. Pts.	Approx Pts.
#1 Physical Condition	40	
Site		6.0
Building Exterior		6.0
Building Systems		8.0
Dwelling Units		14.0
Common Areas		6.0
In addition, Health and Safety deficiencies will result in reductions to the total physical inspection score which takes into account the five areas, above, with their approximate relative weights/points		
#2 Financial Condition	25	
Quick Ratio (liquidity)		12.0
Months Expendable Net Assets Ratio (adequacy of reserves)		11.0
Debt Service Coverage Ratio		2.0
Flags:		
No audit opinion (minus 25 pts)		
Going concern opinion(*)		
Disclaimer of opinion (minus 25 pts)		
Material weakness/internal control(*)		
Adverse opinion (minus 25 pts)		
Qualified opinion(*)		
Reportable conditions(*)		
Findings of non-compliance and questioned costs(*)		
Indicator outlier analyses(*)		
(*) Points will be deducted to the extent points remain after initial scoring for the sub-indicator affected by the flag		

#3 Management Operations	25	
Occupancy		16.0
Tenant Accounts Receivable		5.0
Accounts Payable		4.0
#4 Capital Fund	10	
Timeliness of Fund Obligation		5.0
Occupancy Rate		5.0

Notes

Glossary

Section 1 Glossary of Acronyms

ACC	Annual contributions contract
ACOP	Admissions and continued occupancy policy
ADA	Americans with Disabilities Act of 1990
AIDS	Acquired immune deficiency syndrome
AMI	Area median income
AMP	Asset management project
BR	Bedroom
CAP	Corrective Action Plan (HUD's plan used by PHAs to correct systemic errors or findings from a HUD review or audit)
CDBG	Community Development Block Grant (Program)
CFG	Capital fund grant
CFP	Capital fund program
CFR	Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as "the regulations")
COCC	Central office cost center
CPD	(HUD Office of) Community Planning and Development
CR	Current Ratio (also called Quick Ratio)
DCD	Data Collection Device (hand-held computer used in UPCS inspections)
DOFA	Date of Full Availability (date when all units in a new project are ready for rental)
DOJ	Department of Justice
DSCR	Debt Service Coverage Ratio (new PHAS financial component)
EHS	Exigent Health and Safety

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EID	Earned income disallowance
EIV	Enterprise Income Verification (HUD's UIV system)
ESL	English as a Second Language
EUM	Eligible Unit Months
FASB	Financial Accounting Standards Board
FASS	Financial Assessment Sub-System
FDS	Financial Data Schedule
FFY	Federal Fiscal Year
FHA	Federal Housing Administration (HUD Office of Housing)
FHEO	(HUD Office of) Fair Housing and Equal Opportunity
FMR	Fair market rent
FR	*Federal Register*
FSS	Family Self-Sufficiency (Program)
FY	Fiscal year
FYE	Fiscal year end
GAAP	Generally Accepted Accounting Principles
GAO	Government Accountability Office
GASB	Governmental Accounting Standards Board
HA	Housing authority or housing agency
HCV	Housing choice voucher (program)
HOPE VI	Homeownership and Opportunity for People Everywhere (program for revitalization of severely distressed public housing)
HUD	Department of Housing and Urban Development
HVAC	Heating Ventilating and Air Conditioning
IFB	Invitations for Bid
IMS-PIC	(HUD) Inventory Management System–Public and Indian Housing Information Center
IPA	Independent public accountant
IRA	Individual retirement account
IRS	Internal Revenue Service
JTPA	Job Training Partnership Act (replaced by Workforce Investment Act)
KSAs	Knowledge, Skills, and Abilities

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LBP	Lead-based paint
LEP	Limited English proficiency
LIHTC	Low-income housing tax credit
LOCCS	Line of Credit Control System
MASS	Management Assessment Sub-System
MEFB	Months Expendable Fund Balance (former PHAS financial component)
MENAR	Months Expendable Net Assets Ratio (new PHAS financial component)
MTW	Moving to Work (Program)
NOFA	Notice of funding availability
NSPIRE	National Standards for the Inspection of Real Estate
OGC	(HUD) Office of General Counsel
OIG	(HUD) Office of Inspector General
OMB	Office of Management and Budget
OSHA	Occupational Safety and Health Administration
PASS	Plan to Achieve Self-Support (SSI economic self-sufficiency program)
PASS	Physical Assessment Sub-System (for PHAS)
PBM	Project-Based Management
PEL	Project Expense Level
PH	Public Housing (Program)
PHA	Public housing agency
PHAS	Public Housing Assessment System
PIC	PIH Information Center (now IMS-PIC)
PIH	(HUD Office of) Public and Indian Housing
PILOT	Payment in Lieu of Taxes
PO	Purchase Order
PUM	Per Unit (per) Month
QC	Quality control
QHWRA	Quality Housing and Work Responsibility Act of 1998 (also known as the Public Housing Reform Act)
QR	Quick Ratio (new PHAS financial component)
RAD	Rental Assistance Demonstration Program
REAC	(HUD) Real Estate Assessment Center (also known as PIH-REAC)
RFP	Request for proposals
RHIIP	Rental Housing Integrity Improvement Project

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RIM	Rental Integrity Monitoring
RMC	Resident Management Corporation
ROSS	Resident Opportunity and Supportive Services
SS	Social Security (benefits)
SSA	Social Security Administration
SSI	Supplemental security income
SWICA	State wage information collection agency
TANF	Temporary assistance for needy families
TAR	Tenant Accounts Receivable
TSAP	Tenant Selection and Assignment Plan
TTP	Total tenant payment
UA	Utility allowance
UFAS	Uniform Federal Accessibility Standards
UIV	Upfront income verification
URP	Utility reimbursement payment
VAWA	Violence Against Women Act
VCA	Voluntary Compliance Agreement
WO	Work order

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Section 2 Glossary of Terms

ACCESSIBLE. The facility or portion of the facility that can be approached, entered, and used by persons with disabilities. *(CFR 8.33 and 8.40)*

ADJUSTED INCOME. Annual income (as determined in CFR 5.609) of the members of the family residing or intending to reside in the dwelling unit, after HUD deductions. (*CFR 5.611*)

AFFILIATED INDIVIDUAL. With respect to an individual, a spouse, parent, brother, sister, or child of that individual, or an individual to whom that individual stands in loco parentis (in the place of a parent), or any individual, tenant, or lawful occupant living in the household of that individual.

ALTERNATIVE NON-PUBLIC HOUSING RENT. A monthly rent equal to the greater of the applicable fair market rent for the unit; or the amount of the monthly subsidy provided for the unit, which will be determined by adding the per unit assistance provided to a public housing property as calculated through the applicable formulas for the Public Housing Capital Fund and Public Housing Operating Fund.

- For the Public Housing Capital Fund, the amount of Capital Funds provided to the unit will be calculated as the per unit Capital Fund assistance provided to a PHA for the development in which the family resides for the most recent funding year for which Capital Funds have been allocated.
- For the Public Housing Operating Fund, the amount of Operating Funds provided to the unit will be calculated as the per unit amount provided to the public housing project where the unit is located for the most recent funding year for which a final funding obligation determination has been made.
- HUD will publish such funding amounts no later than December 31 each year.

ANNUAL CONTRIBUTIONS CONTRACT. The written contract between HUD and a PHA under which HUD agrees to provide funding for a program under the 1937 Act, and the PHA agrees to comply with HUD requirements for the program.

ANNUAL INCOME. Annual income includes, with respect to the family, all amounts not specifically excluded under the regulations, received from all sources by each family member who is 18 years of age or older or is the head of household or spouse of the head of household, plus unearned income by or on behalf of each dependent who is under 18 years of age; and when the value of net family assets exceeds $54,898 (adjusted annually for inflation), and the actual returns from a given asset cannot be calculated, imputed returns on the asset based on the current passbook savings rate, as determined by HUD. (*CFR 5.609*)

APPLICANT. A family that has applied for admission to a program, but is not yet a participant in the program.

AS-PAID STATES. States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

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ASSETS. (See *net family assets.*) (*CFR 5.603*)

ASSISTANCE ANIMAL. An animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or an animal that provides emotional support that alleviates one or more identified symptoms or effects of a person's disability.

AUXILIARY AIDS. Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities requiring federal financial assistance.

BIFURCATE. With respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.

CEILING RENT. The highest rent amount the PHA will require a family to pay, for a particular unit size, when the family is paying an income-based rent.

CHILD. A member of the family other than the family head or spouse who is under 18 years of age.

CHILD CARE EXPENSES. Amounts paid by the family for the care of minors under 13 years of age where such care is necessary to enable a family member to be employed, to actively seek employment, or further their education. (*CFR 5.603*)

CITIZEN. A citizen or national of the United States.

COHEAD. An individual in the household who is equally responsible for the lease with the Head of Household. A family may have a cohead or spouse but not both. A cohead never qualifies as a dependent. The cohead must have legal capacity to enter into a lease.

CONFIRMATORY REVIEW. An on-site review performed by HUD to verify the management performance of a PHA.

CONSENT FORM. Any consent form approved by HUD to be signed by assistance applicants and residents to obtain income information from employers, financial institutions and SWICAs (for PIH use); information from the Social Security Administration and return information for earned and unearned income from the IRS (for HUD use only). Consent forms, including those designed by the PHA, expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

COVERED FAMILIES. Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which federal, state, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

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DATING VIOLENCE. Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

DAY LABORER. An individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future.

DEPENDENT. A member of the family household (which excludes foster children and foster adults) other than the family head or spouse, who is under 18 years of age, is a person with a disability, or is a full-time student 18 years of age or over. (*CFR 5.603*)

DEPENDENT CHILD. In the context of the student eligibility restrictions, a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of *dependent* as specified above.

DISABILITY ASSISTANCE EXPENSES. Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source. (*CFR 5.603*)

DISABLED FAMILY. A family whose head, cohead, spouse, or sole member is a person with disabilities; two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

DISABLED PERSON. (See *person with disabilities.*)

DISALLOWANCE. Exclusion from annual income.

DISPLACED FAMILY. A family in which each member, or whose sole member is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to federal disaster relief laws.

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DOMESTIC VIOLENCE. Felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding, and in the case of victim services, includes the user or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is:

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

.**DOMICILE.** The legal residence of the household head or spouse as determined in accordance with state and local law.

DRUG-RELATED CRIMINAL ACTIVITY. The illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute, or use the drug.

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

ECONOMIC SELF-SUFFICIENCY PROGRAM. Any program designed to encourage, assist, train or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). *(Also see CFR 5.603(c))*.

EFFECTIVE DATE. The "effective date" of an examination or reexamination refers to: (i) in the case of an examination for admission, the date of initial occupancy and (ii) in the case of reexamination of an existing tenant, the date the redetermined rent becomes effective.

ELDERLY FAMILY. A family whose head, cohead, spouse, or sole member is a person who is at least 62 years of age; two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides. (*CFR 5.403*)

ELDERLY PERSON. An individual who is at least 62 years of age. (*1937 Housing Act*)

ELIGIBLE FAMILY. A family that is income eligible and meets the other requirements of the 1937 Act and Part 5 of 24 CFR. (*CFR 5.603*)

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EXTREMELY LOW-INCOME FAMILY. A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area, whichever number is higher. Area median income is determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30 percent of median income if HUD finds such variations are necessary due to unusually high or low family incomes. *(CFR 5.603)*

FAIR HOUSING ACT. Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

FAIR MARKET RENT (FMR). The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, safe, habitable rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the *Federal Register* in accordance with 24 CFR Part 888.

FAMILY. Includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, and can be further defined in PHA policy.

- A family with or without children (the temporary absence of a child from the home due to placement in foster care is not considered in determining family composition and family size)
- An elderly family or a near-elderly family
- A displaced family
- The remaining member of a tenant family
- A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

FAMILY SELF-SUFFICIENCY (FSS) PROGRAM. The program established by a PHA within its jurisdiction or by an owner to promote self-sufficiency among participating families, including the coordination of supportive services to these families. *(CFR 984.103)*

FLAT RENT. Established by the PHA for each public housing unit; a rent based on the market rent charged for comparable units in the unassisted rental market, set at no less than 80 percent of the current fair market rent (FMR), 80 percent of the small area fair market rent (SAFMR), or 80 percent of the unadjusted rent, with utility allowances applied as necessary. The unadjusted rent is the FMR estimated directly from source data that HUD uses to calculate FMRs in nonmetropolitan areas.

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

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

FOSTER CHILD CARE PAYMENT. Payment to eligible households by state, local, or private agencies appointed by the state to administer payments for the care of foster children.

FULL-TIME STUDENT. A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended). (*CFR 5.603*)

GENDER IDENTITY. Actual or perceived gender-related characteristics.

HEAD OF HOUSEHOLD. The adult member of the family who is the head of the household for purposes of determining income eligibility and rent. (*CFR 5.504*)

HEALTH AND MEDICAL CARE EXPENSES. Health and medical care expenses are any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed.

HOUSEHOLD. A household includes additional people other than the family who, with the PHA's permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

IMPUTED ASSET. Asset disposed of for less than fair market value during two years preceding examination or reexamination.

IMPUTED ASSET INCOME. Calculated using the HUD-determined passbook rate when net family assets exceed $54,898 and the rate of return of a particular asset is unknown.

IMPUTED WELFARE INCOME. An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction but is included in the family's annual income and therefore reflected in the family's rental contribution.

INCOME-BASED RENT. A tenant rent that is based on the family's income and the PHA's rent policies for determination of such rents.

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

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JURISDICTION. The area in which the PHA has authority under state and local law to administer the program. (*CFR 982.4*)

LEASE. A written agreement between the PHA and a tenant family for the leasing of a public housing unit. The lease establishes the legal relationship between the PHA and the tenant family.

LIVE-IN AIDE. A person who resides with an elderly person or disabled person, and who (1) is determined to be essential to the care and well-being of the person, (2) is not obligated for the support of the person, and (3) would not be living in the unit except to provide necessary supportive services.

LOCAL PREFERENCE. A preference used by the PHA to select among applicant families.

LOW-INCOME FAMILY. A family whose income does not exceed 80 percent of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80 percent on the basis of its findings that such variations are necessary because of the prevailing levels of construction costs or unusually high or low incomes. (*1937 Housing Act*)

MINIMUM RENT. An amount established by the PHA of zero to $50.

MINOR. A member of the family household other than the family head or spouse who is under 18 years of age.

MIXED FAMILY. A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

MONTHLY ADJUSTED INCOME. One-twelfth of adjusted income. (*CFR 5.603*)

MONTHLY INCOME. One-twelfth of annual income. (*CFR 5.603*)

NATIONAL. A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

NEAR-ELDERLY FAMILY. A family whose head, cohead, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

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NET FAMILY ASSETS. (1) Net cash value of all assets owned by the family after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment. In determining net family assets, PHAs or owners, as applicable, must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets. Asset exclusions are listed in the regulations at 5.603(b)(3).

NONCITIZEN. A person who is neither a citizen nor national of the United States.

OCCUPANCY STANDARD. Standards established by a PHA to determine appropriate number of bedrooms for families of different sizes and compositions.

NON-PUBLIC HOUSING OVER-INCOME FAMILY. A family whose income exceeds the over-income limit for 24 consecutive months and is paying the alternative non-public housing rent. The over-income limit is determined by multiplying the applicable income limit for a very low-income family, as defined in 24 CFR 5.603(b), by a factor of 2.4. See 24 CFR 960.507(b).

PARTICIPANT. A family that has been admitted to the PHA program and is currently assisted in the program.

PERSON WITH DISABILITIES. *For the purposes of program eligibility:* A person who has a disability as defined under the Social Security Act or Developmental Disabilities Care Act, or a person who has a physical or mental impairment expected to be of long-continued and indefinite duration and whose ability to live independently is substantially impeded by that impairment but could be improved by more suitable housing conditions. This includes persons with AIDS or conditions arising from AIDS but excludes persons whose disability is based solely on drug or alcohol dependence. *For the purposes of reasonable accommodation:* A person with a physical or mental impairment that substantially limits one or more major life activities, a person regarded as having such an impairment, or a person with a record of such an impairment.

PHA PLAN. The annual plan and the 5-year plan as adopted by the PHA and approved by HUD.

PREMISES. The building or complex in which the dwelling unit is located, including common areas and grounds.

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PREVIOUSLY UNEMPLOYED. With regard to the earned income disallowance, a person who has earned, in the 12 months previous to employment, no more that would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

PUBLIC ASSISTANCE. Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by federal, state, or local governments.

PUBLIC HOUSING AGENCY (PHA). Any state, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage in or assist in the development or operation of housing for low-income families.

QUALIFIED FAMILY. With regard to the earned income disallowance, a family residing in public housing:

- (i) Whose annual income increases as a result of employment of a family member who was unemployed for one or more years previous to employment;
- (ii) Whose annual income increases as a result of increased earnings by a family member during participation in any economic self-sufficiency or other job training program; or
- (iii) Whose annual income increases, as a result of new employment or increased earnings of a family member, during or within six months after receiving assistance, benefits, or services under any state program for temporary assistance for needy families funded under Part A or Title IV of the Social Security Act, as determined by the PHA in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies, and transportation assistance, provided that the total amount over a six-month period is at least $500.

REAL PROPERTY. As used in the regulation on calculation of income and assets under 24 CFR 5.609 has the same meaning as that provided under the law of the state in which the property is located. (CFR 5.100)

REASONABLE ACCOMMODATION. A change, exception, or adjustment to a rule, policy, practice, or service to allow a person with disabilities to fully access the PHA's programs or services.

SEASONAL WORKER. An individual who is hired into a short-term position (e.g., for which the customary employment period is six months or fewer) and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry.

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

RECERTIFICATION. Sometimes called reexamination. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported. There are annual and interim recertifications.

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REMAINING MEMBER OF TENANT FAMILY. The person left in assisted housing who may or may not normally qualify for assistance on their own circumstances (for example, an elderly spouse dies, leaving widow age 47 who is not disabled).

RESIDENCY PREFERENCE. A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area. (See *residency preference area.*)

RESIDENCY PREFERENCE AREA. The specified area where families must reside to qualify for a residency preference.

RESPONSIBLE ENTITY. For the public housing program, the PHA administering the program under an ACC with HUD. *(CFR 5.603)*

SECRETARY. The Secretary of Housing and Urban Development.

SECURITY DEPOSIT. A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the PHA upon termination of the lease.

SERVICE ANIMAL. Any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. The provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purpose of this definition. (*Notice FHEO 2020-01*)

SEXUAL ASSAULT. Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent. *(42 U.S.C. 13925(a))*

SEXUAL ORIENTATION. Homosexuality, heterosexuality, or bisexuality.

SINGLE PERSON. A person living alone or intending to live alone.

SOCIAL SECURITY NUMBER (SSN). The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

SPECIFIED WELFARE BENEFIT REDUCTION. Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

SPOUSE. The marriage partner of the head of the household.

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STALKING. To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

STATE WAGE INFORMATION COLLECTION AGENCY (SWICA). The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

TENANT. The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

TENANT RENT. The amount payable monthly by the family as rent to the unit owner. (*CFR 5.603*)

TOTAL TENANT PAYMENT (TTP). The total amount the HUD rent formula requires the tenant to pay toward rent and utilities. (*CFR 5.613*)

UNEARNED INCOME. Any annual income, as calculated under 24 CFR?5.609, that is not earned income. (CFR 5.100)

UPFRONT INCOME VERIFICATION (UIV). UIV is the verification of income, before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a large number of individuals. (*VG, p. 7*)

UTILITIES. Water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection and sewage services. Telephone service is not included.

UTILITY ALLOWANCE. If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

UTILITY REIMBURSEMENT. The amount, if any, by which the utility allowance for the unit, if applicable, exceeds the total tenant payment (TTP) for the family occupying the unit. (*CFR 5.603*)

VERY LOW-INCOME FAMILY. A family whose annual income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50 percent of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. (*1937 Housing Act*)

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VETERAN. A person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released therefrom under conditions other than dishonorable.

VIOLENCE AGAINST WOMEN ACT (VAWA). Prohibits denying admission to the project to an otherwise qualified applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

VIOLENT CRIMINAL ACTIVITY. Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

WAITING LIST. A list of families organized according to HUD regulations and PHA policy who are waiting for a unit to become available.

WELFARE ASSISTANCE. For the purposes of the Family Self-Sufficiency (FSS) program only, income assistance from federal, state, or local welfare programs, and includes only cash maintenance payments designed to meet a family's ongoing basic needs. Does not include nonrecurring short term benefits designed to address individual crisis situations, work subsidies, supportive services such as child care and transportation provided to families who are employed, refundable earned income tax credits, contributions to and distributions from Individual Development Accounts under TANF, services such as counseling, case management, peer support, child care information and referral, financial empowerment, transitional services, job retention, job advancement, and other employment-related services that to not provide basic income support, amounts solely directed to meeting housing expenses, amounts for health care, Supplemental Nutrition Assistance Program (SNAP) and emergency rental and utilities assistance, SSI, SSDI, or social security, and child-only or non-needy TANF grants made to or on behalf of a dependent child solely on the basis of the child's need and not the need of the child's current non-parental caretaker. (CFR 984.103)

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