City of South St. Paul
Housing and Redevelopment Authority Agenda
Special Meeting

Tuesday, January 16, 2024 – Council Chambers

Immediately Following the Conclusion of the 7:00 PM Meeting of the City Council

1. CALL TO ORDER:

2. ROLL CALL:

3. AGENDA:

A. Approval of Agenda
Action – Motion to Approve
Action – Motion to Approve as Amended

4. CONSENT AGENDA:

All items listed on the Consent Agenda are items, which are considered to be routine by the Economic Development Authority and will be approved by one motion. There will be no separate discussion of these items unless a Commissioner or citizen so requests, in which event the item will be removed from the consent agenda and considered at the end of the Consent Agenda.

A. Approval of Minutes – Annual Meeting – October 16, 2023
B. Satisfaction of Mortgage

5. PUBLIC HEARINGS:

A. Rescinding Conveyance of Real Property Approved by Resolution No. 2022-3348 and Approving Conveyance of Real Property to the South St. Paul Economic Development Authority, Resolution 2024-3355 and Resolution 2024-3356

6. GENERAL BUSINESS:

A. Approval of Revised Admissions and Continued Occupancy Policy (ACOP)
B. Application for 2024 Publicly Owned Housing Program Funding through Minnesota Housing Finance Agency
C. Temporary Staffing Discussion

7. ADJOURNMENT:

Respectfully Submitted,

Ryan Garcia, Executive Director

HOUSING AND REDEVELOPMENT AUTHORITY
OF THE CITY OF SOUTH ST. PAUL

BOARD OF COMMISSIONERS
MINUTES
ANNUAL MEETING
OCTOBER 16, 2023

The Annual Meeting of the Housing and Redevelopment Authority of the City of South St. Paul was held on October 16, 2023, in the City Council Chambers at South St. Paul City Hall. Chairperson Hansen called the meeting to order at 6:30 P.M.

The following Commissioners were present: Pam Bakken, Tom Seaberg, Todd Podgorski, Lori Hansen, Joe Kaliszewski, Matthew Thompson and Jimmy Francis.

Staff present were Ryan Garcia, Executive Director, Housing Program Administrator Tiffany Greene, and City Attorney Kori Land.

APPROVAL OF AGENDA

It was moved by Commissioner Kaliszewski and seconded by Commissioner Podgorski to approve the agenda as presented.

Motion carried 7 Ayes / 0 Nays

CONSENT AGENDA

A. Approval of Minutes – Annual Meeting – October 23, 2022

It was moved by Commissioner Thompson and Seconded by Commissioner Bakken to approve the Consent Agenda as presented.

Motion carried 7 Ayes / 0 Nays

GENERAL BUSINESS

A. Election of Officers

Chairperson Hansen opened nominations for Chairperson.

Commissioner Seaberg nominated Lori Hansen for Chair through a motion, which was seconded by Commissioner Bakken. After successive calls were made for nominations and none came, the motion prevailed on a vote of 7 in favor and 0 against.

Commissioner Seaberg nominated Pam Bakken for Vice Chairperson. The motion was seconded by Commissioner Kaliszewski. After successive calls were made by the Chair for further nominations and none came, the motion prevailed on a vote of 7 in favor and 0 against.

Commissioner Seaberg nominated Todd Podgorski for Secretary. The motion was seconded by Commissioner Bakken. After successive calls were made by the Chair for further nominations and none came, the motion prevailed on a vote of 7 in favor and 0 against.

B. Approval of Bids and Award of Contracts for John Carroll Plumbing Project

Ms. Greene presented information relating to the John Carroll Plumbing Project Bids, and recommended award to Frerichs Construction for the general construction project and to VCI Environmental for the abatement project. Commissioner Seaberg asked for and received clarification that costs related to the relocation of tenants to alternative housing arrangements during the project were not included in the bids received. Staff will return in the future as those costs are analyzed and determined.

It was moved by Commissioner Francis and Seconded by Commissioner Seaberg to award the contract for the John Carroll Plumbing Project to Frerichs Construction.

Motion carried 7 Ayes / 0 Nays

It was moved by Commissioner Kaliszewski and Seconded by Commissioner Bakken to award the contract for abatement and environmental services related to the John Carroll Plumbing Project to VCI Environmental.

Motion carried 7 Ayes / 0 Nays

C. Approval of 2024 Public Housing Budget – Resolution No. 2023-3351

Ms. Greene summarized the proposed 2024 Public Housing Budget. Commissioner Seaberg clarified that any modification or amendment to the budget approved via Resolution 2023-3351 would be brought before the board for approval in the future, which staff confirmed.

It was moved by Commissioner Bakken and Seconded by Commissioner Francis to approve Resolution 2023 – 3351, Approval of the 2024 Public Housing Budget.

Motion carried 7 Ayes / 0 Nays

D. Approval of Changes to The Admission and Continued Occupancy Policy – Resolution No. 2023-3352

It was moved by Commissioner Francis and Seconded by Commissioner Bakken to approve Resolution 2023 – 3352, Approval of Changes to The Admission and Continued Occupancy Policy.

Motion carried 7 Ayes / 0 Nays

E. Approval of Revised Senior Public Housing Highrise Lease & Addendums

It was moved by Commissioner Francis and Seconded by Commissioner Bakken to approve the Revised Public Housing Highrise Lease & Addendums.

Motion carried 7 Ayes / 0 Nays

PUBLIC HEARINGS

A. Approval of 2024 Agency Plan and 5-Year Capital Fund Plan – Resolution No. 2023-3353

Chair Hansen opened the Public Hearing at 6:52 P.M.

Tiffany Greene provided a summary of the Annual Agency Plan and 5-Year Capital Fund Plan, and acknowledged the participation of the Resident Advisory Board in its preparation.

Chair Hansen closed the Public Hearing at 6:54 P.M.

It was moved by Commissioner Kaliszewski and Seconded by Commissioner Thompson to approve Resolution 2023 – 3353, Approval of the 2024 Agency Plan and 5-Year Capital Fund Plan.

Motion carried 7 Ayes / 0 Nays

ADJOURNMENT

There being no further business to come before the Board it was moved by Commissioner Bakken and seconded by Commissioner Francis to adjourn. Chairperson Hansen declared the meeting adjourned at 6:55 PM.

Respectfully submitted,

_____ _____

Todd Podgorski, Secretary Lori Hansen, Chairperson

HRA Agenda Report
Date: January 16, 2024
HRA Executive Director: rg

4-B

AGENDA ITEM: Approval of Satisfaction of Mortgage – Applicant #974

ACTION TO BE CONSIDERED: Through Consent, motion to authorize the execution of documentation for Satisfaction of Mortgage related to Applicant #974.

OVERVIEW:

Applicant #974 received an HRA rehabilitation loan of $3250.00 in 2011, with a mortgage recorded at that time. The mortgagee recently paid back the loan in full, thus satisfying the mortgage. Therefore, the HRA is advised to authorize the designated officers of the City's Housing and Redevelopment Authority to execute all necessary documentation required to record the Satisfaction of Mortgage.

SOURCE OF FUNDS: N/A

HRA Agenda Report
Date: January 16, 2024
HRA Executive Director: RG

5-A

AGENDA ITEM: Approval of Conveyance of Real Property to the South St. Paul Economic Development Authority – Resolution No. 2024-3355, 2024-3356

ACTION TO BE CONSIDERED: Following a public hearing, consider two motions:

A motion to approve Resolution 2024-3355, to rescind the conveyance of portions of vacated Pitt Street to the South St. Paul Economic Development Authority.

A motion to approve Resolution 2024-3356, to approve the conveyance of portions of vacated Pitt Street to the South St. Paul Economic Development Authority.

OVERVIEW:

In the course of conducting title research related to "The Vaquero" development, it was discovered that a formerly platted public street, Pitt Street, was still partially dedicated to the public through the development site even though the property platted as a street is developed mostly with surface parking and landscaping for the Drover Apartments.

In October 2022, the City Council took action to vacate Pitt Street, and by virtue of the roadway vacation, the western half of the Pitt Street Right-of-Way would "attach" to the adjacent properties immediately to the west. Also in October 2022, the HRA held a public hearing and adopted Resolution 2022 – 3348 to convey the "newly attached" remnants of Pitt Street to the South St. Paul EDA. As The Vaquero development team encountered continued hurdles to advance their redevelopment concept, it was determined that an alternative approach to site replatting and site design, which reduces the amount of Pitt Street Right-of-Way that should be vacated at this time, was appropriate.

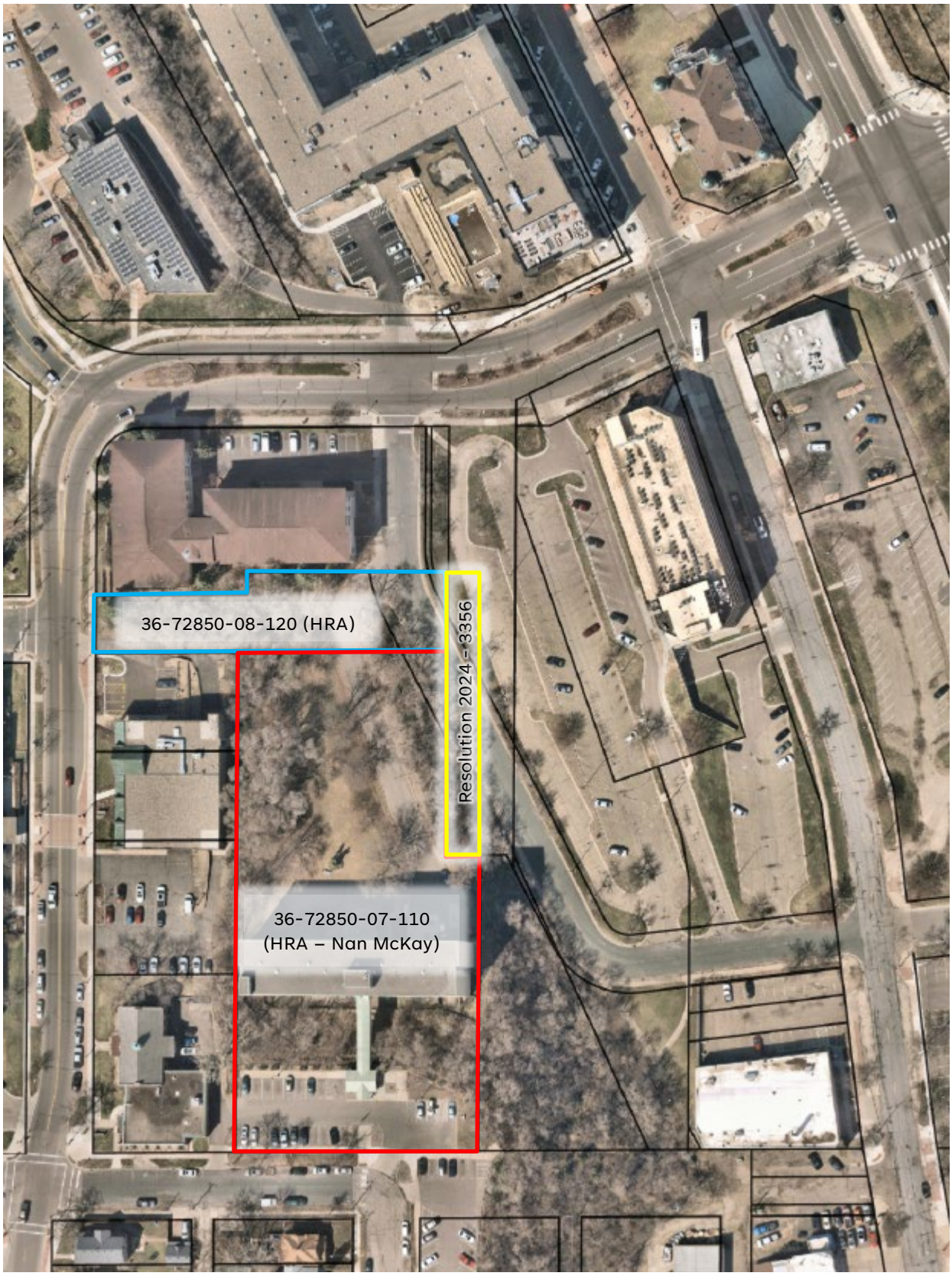
At the January 16, 2024 meeting, the City Council was asked to consider rescinding the October 2022 vacation of Pitt Street, in addition to rescinding a previously approved property split which "detached" the "attached" parcel created by the right-of-way vacation. The Council was also asked that, if those actions to rescind were approved, action be taken to vacate a smaller portion of the Pitt Street right-of-way following a public hearing on the matter. Finally, the Council was asked to consider a new property split of the "newly" vacated Pitt Street right-of-way.

Assuming the above actions were taken by the City Council at the January 16, 2024 meeting, Staff is requesting that the HRA hold a public hearing, to take action to rescind the previous conveyance of the former Pitt Street right-of-way as memorialized in Resolution 2022-3348, and also to take action to approve the conveyance of the newly created Pitt Street right-of-way to the South St. Paul EDA.

SOURCE OF FUNDS: N/A

ATTACHMENTS:
Orientation Map
Resolution 2024-3355
2024-3356

ORIENTATION MAP



HOUSING AND REDEVELOPMENT AUTHORITY
OF THE CITY OF SOUTH ST. PAUL
DAKOTA COUNTY, MINNESOTA

RESOLUTION NO. 2024-3355

A RESOLUTION RESCINDING THE CONVEYANCE OF LAND TO THE SOUTH ST. PAUL ECONOMIC DEVELOPMENT AUTHORITY FOR REDEVELOPMENT PURPOSES APPROVED BY RESOLUTION NO. 2022-3348

WHEREAS, the Housing and Redevelopment Authority of the City of South St. Paul ("HRA") is the fee owner of real property legally described as Parcel 1 and Parcel 2 on Exhibit A (individually and collectively the "Property"), attached hereto and incorporated herein; and

WHEREAS, by and through Resolution No. 2022–138, the City vacated a portion of former Pitt Street, which partially attached to the Property; and

WHEREAS, the portion of vacated Pitt Street that attached to the Property is legally described on Exhibit B and depicted on Exhibit C ("Vacated Pitt Street"), attached hereto and incorporated herein; and

WHEREAS, the HRA desires to convey Vacated Pitt Street to the South St. Paul Economic Development Authority ("EDA") for redevelopment purposes; and

WHEREAS, by and through Resolution No. 2022–146, the City approved the lot split of Vacated Pitt Street from the Property; and

WHEREAS, on October 24, 2022, by and through Resolution No. 2022-3348, the HRA authorized the conveyance of Vacated Pitt Street to the EDA; and

WHEREAS, on January 16, 2024, by and through Resolution No. 2024-9, the City rescinded Resolution No. 2022-138 and Resolution No. 2022-146; and

WHEREAS, HRA Resolution No. 2022–3348 was dependent on Resolution No. 2022-138 and Resolution No. 2022-146 so the HRA desires to rescind Resolution No. 2022–3348.

NOW, THEREFORE, BE IT RESOLVED, by the Housing and Redevelopment Authority of the City of South St. Paul, the conveyance approved by Resolution No. 2022-3348 is hereby rescinded and shall have no further effect.

Moved by: Commissioner _____

Seconded by: Commissioner _____

January 16, 2024

_____Ayes _____Nays

EXHIBIT A
LEGAL DESCRIPTION OF THE PROPERTY

Parcel 1:

Lots 1 to 11 inclusive, Block 7, Stockyards Rearrangement of Blocks One (1) to Twelve (12) inclusive, South St. Paul;

Together with those portions of the following described alleys and street which accrued to the above described property by virtue of the Resolution of Vacation adopted by the City of South St. Paul, Minnesota on June 10, 1968;

The alley lying between Block Seven (7) and Block Eight (8), Stockyards Rearrangement of Blocks One (1) to Twelve (12), inclusive, which runs in an Easterly and Westerly direction between Third Avenue North and Pitt Street:

That part of the alley in Block Seven (7), Stockyards Rearrangement of Blocks One (1) to Twelve (12), inclusive, which runs in a Northerly direction from Marie Avenue; that accrues to Lots 1-11 Block 7 by virtue of the vacation thereof

That part of Pitt Street lying between the North line of Marie Avenue and a line running parallel to the North line of Marie Avenue and 265 feet North of the North line of Marie Avenue, that accrues thereto by virtue of the vacation thereof.

Together with the easements created in the Easement Agreement recorded in Book 82 of Miscellaneous Records page 585.

Except the following described parcels:

All that part of the Lots 9 and 10, Block 8 and Lots 1, 2 and 3, Block 7, and that part of the vacated alley lying between said Blocks 7 and 8, all in Stockyards Rearrangement of Blocks 1 to 12 inclusive, South St. Paul, Dakota County, Minnesota, lying Easterly and Northerly of the following described line: Beginning at a point on the North line of said Lot 9, Block 8, a distance of 96 feet West of the Northeast corner thereof; thence Southeasterly to a point on the East line of said Lot 3, Block 7, a distance of 170 feet South of said Northeast corner of said Lot 9, Block 8 and there terminating.

Abstract Property
PID: 36-72850-07-110

Parcel 2:

Lots 1 to 11 inclusive, Block 7, Stockyards Rearrangement of Blocks One (1) to Twelve (12) inclusive, South St. Paul; and Lots 9, 10, 11 and 12, except the Northerly 20 feet of said Lot 12, Block 8, Stockyards Rearrangement of Blocks One (1) to Twelve (12) inclusive, South St. Paul;

Together with those portions of the following described alleys and street which accrued to the above described property by virtue of the Resolution of Vacation adopted by the City of South St. Paul, Minnesota on June 10, 1968;

The alley lying between Block Seven (7) and Block Eight (8), Stockyards Rearrangement of Blocks One (1) to Twelve (12), inclusive, which runs in an Easterly and Westerly direction between Third Avenue North and Pitt Street:

That part of the alley in Block Seven (7), Stockyards Rearrangement of Blocks One (1) to Twelve (12), inclusive, which runs in a Northerly direction from Marie Avenue; that accrues to Lots 1-11 Block 7 by virtue of the vacation thereof

That part of Pitt Street lying between the North line of Marie Avenue and a line running parallel to the North line of Marie Avenue and 265 feet North of the North line of Marie Avenue, that accrues thereto by virtue of the vacation thereof.

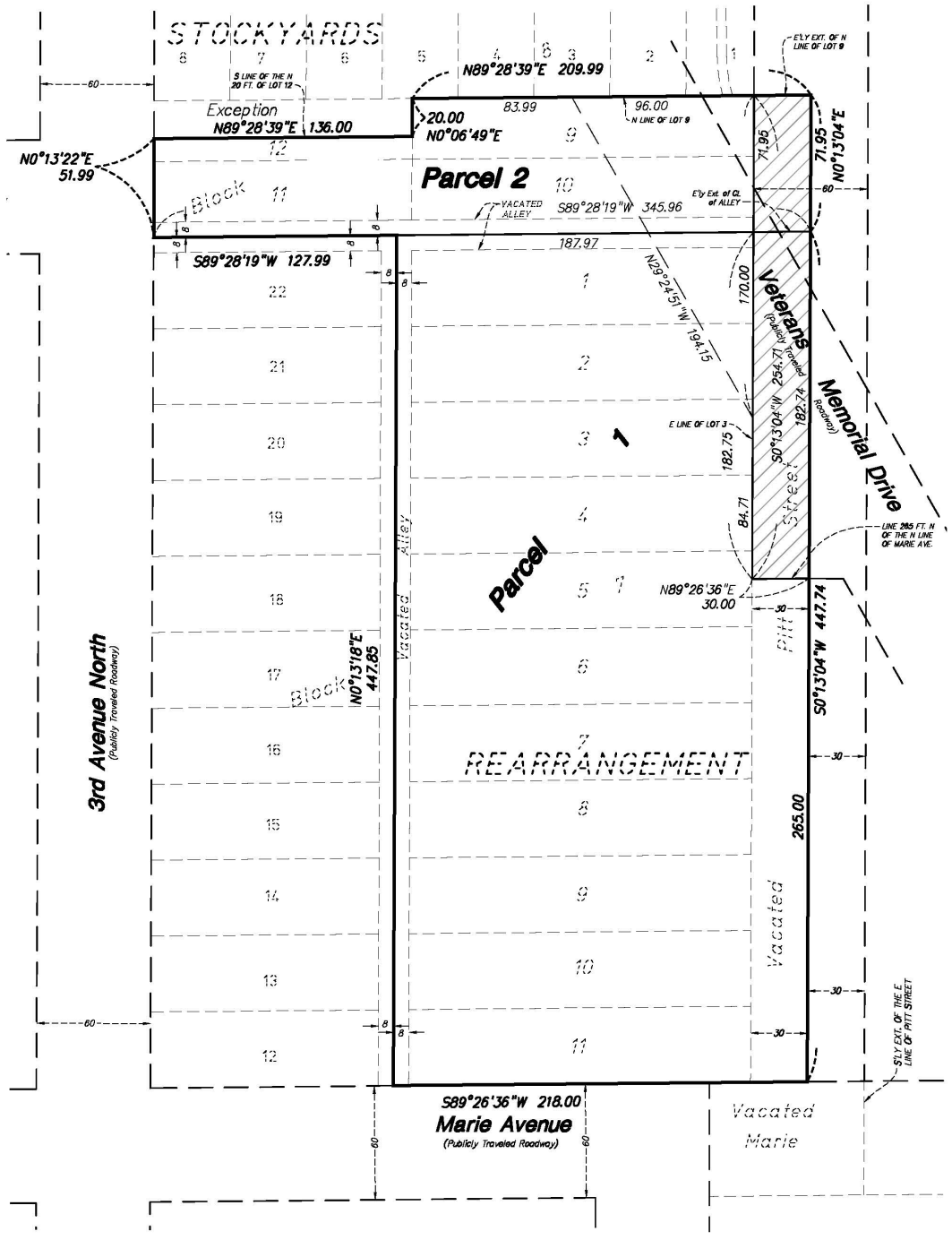
Together with the easements created in the Easement Agreement recorded in Book 82 of Miscellaneous Records page 585, Dakota County, Minnesota.

Abstract Property
PID: 36-72850-08-120

EXHIBIT B
LEGAL DESCRIPTION OF VACATED PITT STREET

The west half of Pitt Street lying south of the easterly extension of the north line of Lot 9, Block 8, Stockyards Rearrangement of Blocks 1 to 12, inclusive, South St. Paul, Dakota County, Minnesota, and lying north of a line running parallel to the North line of Marie Avenue and 265 feet North of the North line of Marie Avenue.

EXHIBIT C
DEPICTION OF VACATED PITT STREET



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I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Max L. Stanislowski - PLS License No. 48988 10/14/22 Date

0 50
SCALE IN FEET

LOUCKS
Loucks Project No. 10067B

Sheet 2 of 2 Sheets

HOUSING AND REDEVELOPMENT AUTHORITY
OF THE CITY OF SOUTH ST. PAUL
DAKOTA COUNTY, MINNESOTA

RESOLUTION NO. 2024-3356

RESOLUTION APPROVING CONVEYANCE OF LAND TO THE SOUTH ST. PAUL ECONOMIC DEVELOPMENT AUTHORITY FOR REDEVELOPMENT PURPOSES

WHEREAS, the Housing and Redevelopment Authority of the City of South St. Paul ("HRA") is the fee owner of real property legally described as Parcel 1 and Parcel 2 on Exhibit A (individually and collectively the "Property"), attached hereto and incorporated herein; and

WHEREAS, by Resolution No. 2024-10, the City vacated a portion of former Pitt Street, which partially attached to the Property; and

WHEREAS, the portion of vacated Pitt Street that attached to the Property is legally described on Exhibit B and depicted on Exhibit C ("Vacated Pitt Street"), attached hereto and incorporated herein; and

WHEREAS, the HRA desires to convey Vacated Pitt Street to the South St. Paul Economic Development Authority ("EDA") for redevelopment purposes; and

WHEREAS, by Resolution No. 2024-12, the City approved the lot split of Vacated Pitt Street from the Property; and

WHEREAS, on January 16, 2024, the HRA held a public hearing on the conveyance of Vacated Pitt Street to the EDA and the HRA considered all of the information presented at the public hearing.

NOW, THEREFORE, BE IT RESOLVED by the Housing and Redevelopment Authority of the City of South St. Paul as follows:

1. The HRA hereby authorizes the conveyance of Vacated Pitt Street to the EDA.

2. The required officers of the HRA are authorized to execute the necessary documents to transfer and convey title of Vacated Pitt Street to the EDA and record deeds accordingly.

Moved by: Commissioner _____

Seconded by: Commissioner _____

January 16, 2024

_____Ayes _____Nays

EXHIBIT A
LEGAL DESCRIPTION OF THE PROPERTY

Parcel 1:

Lots 1 to 11 inclusive, Block 7, Stockyards Rearrangement of Blocks One (1) to Twelve (12) inclusive, South St. Paul;

Together with those portions of the following described alleys and street which accrued to the above described property by virtue of the Resolution of Vacation adopted by the City of South St. Paul, Minnesota on June 10, 1968;

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Together with the easements created in the Easement Agreement recorded in Book 82 of Miscellaneous Records page 585.

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Abstract Property
PID: 36-72850-07-110

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Lots 1 to 11 inclusive, Block 7, Stockyards Rearrangement of Blocks One (1) to Twelve (12) inclusive, South St. Paul; and Lots 9, 10, 11 and 12, except the Northerly 20 feet of said Lot 12, Block 8, Stockyards Rearrangement of Blocks One (1) to Twelve (12) inclusive, South St. Paul;

Together with those portions of the following described alleys and street which accrued to the above described property by virtue of the Resolution of Vacation adopted by the City of South St. Paul, Minnesota on June 10, 1968;

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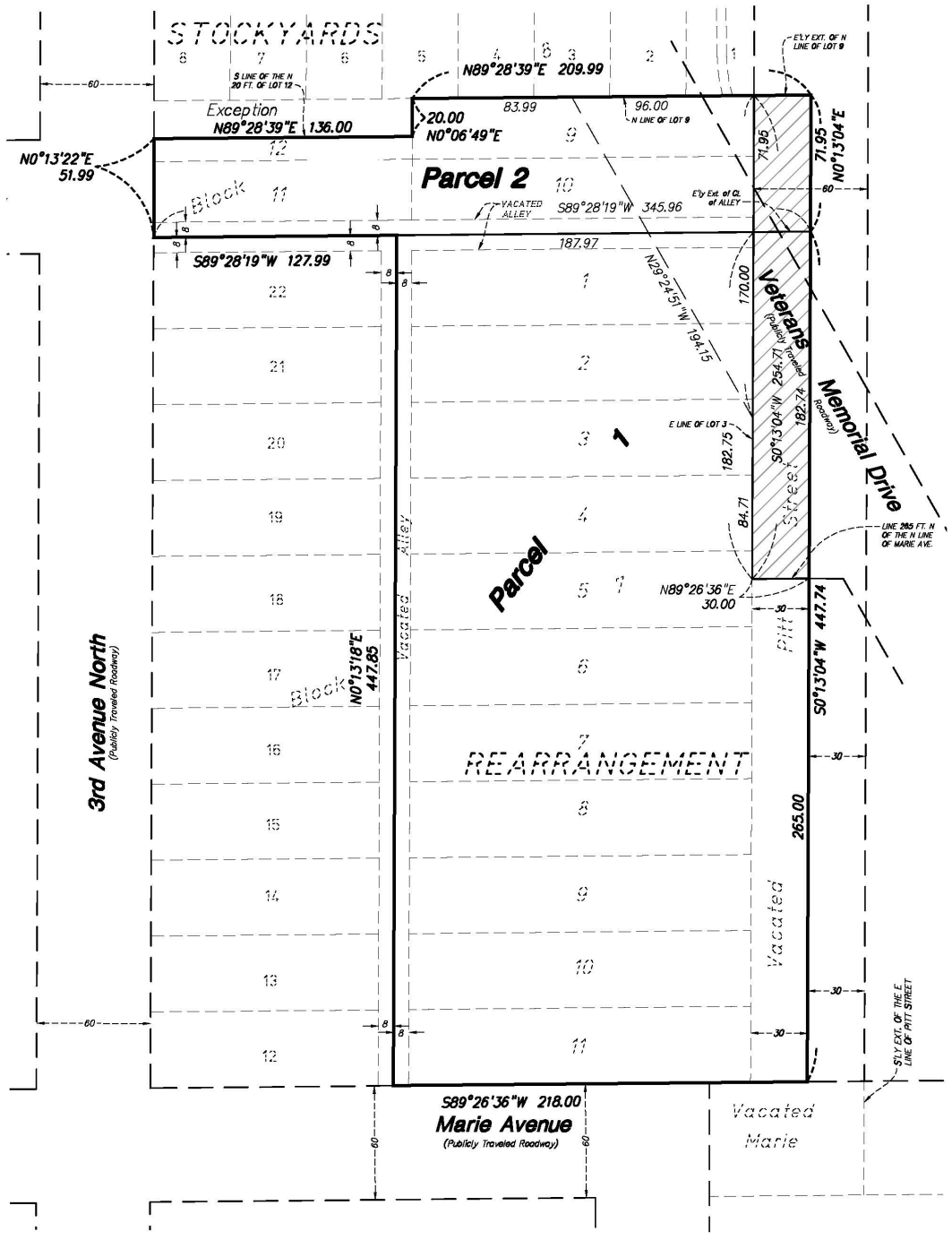
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Abstract Property
PID: 36-72850-08-120

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EXHIBIT C
DEPICTION OF VACATED PITT STREET



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I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Max L. Stanislowski - PLS License No. 48988 10/14/22 Date

0 50
SCALE IN FEET

LOUCKS
Loucks Project No. 10067B

Sheet 2 of 2 Sheets

HRA Agenda Report
Date: January 16, 2024
HRA Executive Director: RG

6-A

Agenda Item: Approval of Revised Admission & Continued Occupancy Policy for Public Housing - Resolution No. 2024 – 3357

Action to be considered: Motion to approve the revised Admission and Continued Occupancy Policy Guidebook (ACOP) for the South St. Paul HRA.

Overview:
The Admission and Continued Occupancy Policy (ACOP) for Public Housing is effectively "the bible" for the operation of the South St. Paul HRA's public housing program. The ACOP integrates relevant federal and state law as it pertains to public housing admission and occupancy with locally nuanced policies and preferences for how to manage and operate the program in the best interests of local conditions, residents, and the community.

Every year HUD sends several notices requiring Public Housing Authorities to update several policies and procedures in their ACOP to align with HUD's updated policies. While the ACOP is in general updated every year with HUD's posted income and rent limit requirements, it was determined that several other policies released by HUD since 2017, which required updates to the ACOP, were not being properly implemented. Furthermore, through a recent training conference, Management was made aware that there were several inconsistencies with policies listed in the South St. Paul HRA's ACOP that if followed according to the ACOP would result in incorrect placement on the waiting list which would essentially lead to moving in applicants incorrectly to the high-rise buildings.

In addition to the need to update several policies and procedures that may have been missed or overlooked in the past several years, HUD published Notice PIH 2023-27: Implementation Guidance to Sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA), which includes mandatory changes across several chapters of the ACOP as they relate to this rule. These new policy changes touched on just about every chapter of the guidebook as it relates to income and asset calculations, over income policies, streamlined annual recertifications, changes to income verification procedures, and much more.

Staff determined it was necessary to completely rebuild the South St. Paul's ACOP and certain sections of the Policy to retain consistency with Federal Rules and assure that the HRA's Property Management Team is not admitting ineligible households into the properties, turning away potentially eligible households, or failing to give priority to targeted households on the waiting list. The revised ACOP also now properly lists all policy updates from HUD including the new HOTMA changes, which are required to be implemented January 1, 2024.

The purchase of a new ACOP and ACOP annual guidance was approved by the HRA Board on October 25, 2021, and guidance was purchased from a well know public housing organization, Nan McKay & Associates. Purchasing the guidebook from this agency will also ensure that no future updates are missed, as they will send a red-line document out to all PHA's in their network citing any changes to policy that HUD has released.

Source of Funds:
N/A
Attachments:
6-A_ACOP_FINAL_1.1.2024
6-A_Notice PIH 2023-27
6-A_Resoultion 2024-3357_Approve Revised ACOP

HOUSING AND REDEVELOPMENT AUTHORITY
OF THE CITY OF SOUTH ST. PAUL
DAKOTA COUNTY, MINNESOTA

RESOLUTION NO. 2024-3357

Approval to Amend Admission & Continued Occupancy Policy (ACOP)
for Public Housing

WHEREAS, the Housing and Redevelopment Authority of the City of South St. Paul, Minnesota ("HRA"), is required to update sections of the Admission & Continued Occupancy Policy ("ACOP") for its Public Housing Program as required by the United States Department of Housing and Urban Development ("HUD"); and

WHEREAS, the ACOP is the official guidebook of all policies and procedures for the administration, operation, and admittance to the HRA's Public Housing Program and is required to be aligned with current federal, state, and local policies; and

WHEREAS, the HRA is required to update all required policy changes, including rent and income eligibility amounts, within 90 days of HUD's posting of such changes.

NOW, THEREFORE, BE IT RESOLVED by the Housing and Redevelopment Authority of the City of South St. Paul, that the Admission & Continued Occupancy Policy shall be updated with all current policy and procedure requirements determined by HUD to ensure compliance with all applicable regulations, rules, and policies established by HUD for the Public Housing Program.

Moved by: Commissioner _____

Seconded by: Commissioner _____

Adopted this 16th day of January 2024.

_____Ayes _____Nays

ADMISSIONS AND CONTINUED OCCUPANCY POLICY (ACOP)

JANUARY 1, 2024

City of South St. Paul
Housing & Redevelopment Authority

Nan McKay
AND ASSOCIATES, INC.

Admissions and Continued Occupancy Policy (ACOP)

CITY OF SOUTH ST. PAUL
HOUSING & REDEVELOPMENT AUTHORITY

Approved by the HA Board of Commissioners:

Submitted to HUD:

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ADMISSIONS AND CONTINUED OCCUPANCY POLICY

FOR THE

PUBLIC HOUSING PROGRAM

Product # 301-001

May 1, 2005

Revision Date	
February 1, 2006	March 1, 2016
October 1, 2006	March 1, 2017
June 1, 2007	July 1, 2017
September 1, 2008	July 1, 2018
September 1, 2009	June 1, 2019
August 1, 2010	July 1, 2020
June 1, 2011	May 1, 2021
June 1, 2012	September 1, 2022
June 1, 2013	March 1, 2023
July 1, 2014	November 1, 2023
June 1, 2015	January 1, 2024

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AND ASSOCIATES, INC.
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www.nanmckay.com

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Glossary

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Introduction

ABOUT THE ACOP

REFERENCES CITED IN THE ACOP

Authority for HRA policies is derived from many sources. Primary among these sources are regulations and guidance issued by HUD. State law also directs HRA policy. State law must be followed where such law exists and does not conflict with federal regulations. In the absence of legal requirements or HUD guidance, industry practice may lead to HRA policy. Finally, the public housing lease will affect HRA policy and therefore must be consistent with federal and state laws and regulations.

HUD

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

HUD provides nonmandatory guidance to HRAs through HUD published guidebooks. Expired HUD Notices and handbooks also provide guidance for HRA policy. Following HUD guidance is optional, as long as HRA policies comply with federal law, federal regulations and mandatory policy. Because HUD has already determined that the guidance it provides is consistent with mandatory policies, HRA reliance on HUD guidance provides the HRA with a "safe harbor."

Content contained on the HUD website can provide further clarification of HUD policies. For example, FAQs on the HUD website can provide direction on the application of federal regulations to a specific pattern.

State Law

Where there is no mandatory federal guidance, HRAs must comply with state law, if it exists. Where state law is more restrictive than federal law, but does not conflict with it, the HRA should follow the state law.

Industry Practice

Where no law or HUD authority exists on a particular subject, industry practice may support HRA policy. An industry practice is a way of doing things that is followed by most housing authorities.

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RESOURCES CITED IN THE ACOP

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

Public Housing Occupancy Guidebook

In June 2020 HUD began issuing a new version of the *Public Housing Occupancy Guidebook* chapter-by-chapter. Unlike the previous version of the guidebook in which chapters were numbered, the new version includes chapter names, but no numbers. As the new version of the guidebook has not yet been fully released, and since the previous version of the guidebook contains guidance not found in the new version, the policy cites both versions of the guidebook. Therefore, where the *Public Housing Occupancy Guidebook* is cited in the policy, the citation will make a distinction between the "old" and "new" versions of the guidebook. The "old" version of the guidebook will continue to be cited as *PH OCC GB* with a chapter/page reference (example: PH OCC GB, p. 5-4). If HUD has also released a new chapter on the same topic with information that either adds new information or updates existing information from the previous guidebook, the new guidebook will be cited as *New PH OCC GB* with a chapter title and page reference (example: New PH OCC GB, *Lease Requirements,* p. 11).

On September 29, 2023, HUD issued Notice PIH 2023-27 to implement sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA). The notice supersedes relevant portion of the guidebook, specifically the chapters on eligibility and occupancy, income determinations, and reexaminations. Where chapters have not been altered by the HOTMA implementation notice, the model policy continues to site the Public Housing Occupancy Guidebook.

Abbreviations

Throughout the ACOP, abbreviations are used to designate certain documents in citations. The following is a table of abbreviations of documents cited by the ACOP.

Abbreviation	Document
CFR	Code of Federal Regulations
HUD-50058 IB	HUD-50058 Instruction Booklet
PH OCC GB	Public Housing Occupancy Guidebook, June 2003
New PH OCC GB	Public Housing Occupancy Guidebook, Various dates of release
RHIIP FAQs	Rental Housing Integrity Improvement Program (RHIIP) Frequently Asked Questions
VG	Verification Guidance, March 2004 (attachment to PIH Notice 2004-1)

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Resources and Where to Find Them

The HUD website is https://www.hud.gov/.

Guidebooks, handbooks, and other HUD resources may be found at the HUDClips website: https://www.hud.gov/program_offices/administration/hudclips

Following is a list of resources helpful to the HRA or referenced in the ACOP, and the online location of each.

Document and Location
Code of Federal Regulations http://www.ecfr.gov
Enterprise Income Verification (EIV) System PHA Security Procedures https://www.hud.gov/sites/documents/EIVSECGUIDEPHA.PDF
Executive Order 11063 https://www.archives.gov/federal-register/codification/executive-order/11063.html
Federal Register https://www.federalregister.gov/
HOTMA Final Rule https://www.federalregister.gov/documents/2023/02/14/2023-01617/housing-opportunity-through-modernization-act-of-2016-implementation-of-sections-102-103-and-104?utm_campaign=subscription+mailing+list&utm_source=federalregister.gov&utm_medium=email
HOTMA Implementation Notice, PIH 2023-27 https://www.hud.gov/sites/dfiles/OCHCO/documents/2023-27pihn.pdf
Joint Statement of the Department of Housing and Urban Development and the Department of Justice, issued May 17, 2004 https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf
Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007 https://www.lep.gov/guidance/HUD_guidance_Jan07.pdf
Notice PIH 2010-26, Nondiscrimination and Accessibility Notice http://www.hud.gov/offices/pih/publications/notices/10/pih2010-26.pdf
Notice PIH 2017-12, Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System https://www.hud.gov/sites/documents/PIH2017-12EIVNOTICE.PDF
Public Housing Occupancy Guidebook, June 2003 https://www.hud.gov/sites/documents/DOC_10760.PDF
VAWA Resources https://www.hud.gov/vawa

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Chapter 1

OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION

The HRA receives its operating subsidy for the public housing program from the Department of Housing and Urban Development. The HRA is not a federal department or agency. A public housing agency (HRA) is a governmental or public body, created and authorized by state law to develop and operate housing and housing programs for low-income families. The HRA enters into an Annual Contributions Contract with HUD to administer the public housing program. The HRA must ensure compliance with federal laws, regulations and notices and must establish policies and procedures to clarify federal requirements and to ensure consistency in program operation.

This chapter contains information about the HRA and its programs with emphasis on the public housing program. It also contains information about the purpose, intent and use of the plan and guide.

There are three parts to this chapter:

Part I: The Housing & Redevelopment Authority (HRA). This part includes a description of the HRA, its jurisdiction, its programs, and its mission and intent.

Part II: The Public Housing Program. This part contains information about public housing operation, roles and responsibilities, and partnerships.

Part III: The Admissions and Continued Occupancy (ACOP). This part discusses the purpose and organization of the plan and its revision requirements.

PART I: THE HRA

1-I.A. OVERVIEW

This part describes the HRA's creation and authorization, the general structure of the organization, and the relationship between the HRA Board and staff.

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1-I.B. ORGANIZATION AND STRUCTURE OF THE HRA

Public housing is funded by the federal government and administered by the **City of South St. Paul Housing & Redevelopment Authority (HRA)** for the jurisdiction of the **State of Minnesota, City of South St. Paul, County of Dakota**.

HRAs are governed by a board of officials that are generally called "commissioners." Although some HRAs may use a different title for their officials, this document will hitherto refer to the "board of commissioners" or the "board" when discussing the board of governing officials.

Commissioners are appointed in accordance with state housing law and generally serve in the same capacity as the directors of a corporation. The board of commissioners establishes policies under which the HRA conducts business and ensures that those policies are followed by HRA staff. The board is responsible for preserving and expanding the agency's resources and assuring the agency's continued viability and success.

Formal actions of the HRA are taken through written resolutions, adopted by the board and entered into the official records of the HRA.

The principal staff member of the HRA is the executive director (ED), who is selected and hired by the board. The ED oversees the day-to-day operations of the HRA and is directly responsible for carrying out the policies established by the commissioners. The ED's duties include hiring, training, and supervising the HRA's staff, as well as budgeting and financial planning for the agency. Additionally, the ED is charged with ensuring compliance with federal and state laws, and program mandates. In some HRAs, the ED is known by another title, such as chief executive officer or president.

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1-I.C. HRA MISSION

The purpose of a mission statement is to communicate the purpose of the agency to people inside and outside of the agency. It provides the basis for strategy development, identification of critical success factors, resource allocation decisions, as well as ensuring client and stakeholder satisfaction.

HRA Policy

"It is the mission of the South St. Paul Housing & Redevelopment Authority to provide affordable housing opportunities in a safe and welcoming environment, by forming effective partnerships to maximize social and economic opportunities for households of limited means."

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1-I.D. THE HRA'S COMMITMENT TO ETHICS AND SERVICE

As a public service agency, the HRA is committed to providing excellent service to all public housing applicants, residents, and the public. In order to provide superior service, the HRA resolves to:

- Administer applicable federal and state laws and regulations to achieve high ratings in compliance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.
- Provide housing that is safe, habitable, functionally adequate, operable, and free of health and safety hazards—in compliance with the National Standards for the Physical Inspection of Real Estate: Inspection Standards (NSPIRE)—for very low- and low-income families.
- Achieve a healthy mix of incomes in its public housing developments by attracting and retaining higher income families and by working toward deconcentration of poverty goals.
- Encourage self-sufficiency of participant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational and other human services needs.
- Promote fair housing and the opportunity for very low- and low-income families of all races, ethnicities, national origins, religions, ethnic backgrounds, and with all types of disabilities, to participate in the public housing program and its services.
- Create positive public awareness and expand the level of family and community support in accomplishing the HRA's mission.
- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.
- Administer an efficient, high-performing agency through continuous improvement of the HRA's support systems and commitment to our employees and their development.

The HRA will make every effort to keep residents informed of program rules and regulations, and to advise participants of how the program rules affect them.

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PART II: THE PUBLIC HOUSING PROGRAM

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

The intent of this section is to provide the public and staff an overview of the history and operation of public housing.

The United States Housing Act of 1937 (the "Act") is responsible for the birth of federal housing program initiatives, known as public housing. The Act was intended to provide financial assistance to states and cities for public works projects, slum clearance and the development of affordable housing for low-income residents. There have been many changes to the program since its inception in 1937.

The Housing Act of 1965 established the availability of federal assistance, administered through local public agencies, to provide rehabilitation grants for home repairs and rehabilitation. This act also created the federal Department of Housing and Urban Development (HUD).

The Housing Act of 1969 created an operating subsidy for the public housing program for the first time. Until that time, public housing was a self-sustaining program.

In 1998, the Quality Housing and Work Responsibility Act (QHWRA) – also known as the Public Housing Reform Act or Housing Act of 1998 – was signed into law. Its purpose was to provide more private sector management guidelines to the public housing program and provide residents with greater choices. It also allowed HRAs more remedies to replace or revitalize severely distressed public housing developments. Highlights of the Reform Act include: the establishment of flat rents; the requirement for HRAs to develop five-year and annual plans; income targeting, a requirement that 40% of all new admissions in public housing during any given fiscal year be reserved for extremely low-income families; and resident self-sufficiency incentives.

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

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1-II.B. PUBLIC HOUSING PROGRAM BASICS

HUD writes and publishes regulations in order to implement public housing laws enacted by Congress. HUD contracts with the HRA to administer programs in accordance with HUD regulations and provides an operating subsidy to the HRA. The HRA must create written policies that are consistent with HUD regulations. Among these policies is the HRA's Admissions and Continued Occupancy Policy (ACOP). The ACOP must be approved by the board of commissioners of the HRA.

The job of the HRA pursuant to HUD regulations is to provide safe, habitable dwelling units to low-income families at an affordable rent. The HRA screens applicants for public housing and, if they are determined to be eligible for the program, the HRA makes an offer of a housing unit. If the applicant accepts the offer, the HRA and the applicant will enter into a written lease agreement. At this point, the applicant becomes a tenant in the public housing program.

In the context of the public housing program, a tenant is defined as the adult person(s) (other than a live-in aide who (1) executed the lease with the HRA as lessee of the dwelling unit, or, if no such person now resides in the unit, (2) who resides in the unit, and who is the remaining head of household of the tenant family residing in the dwelling unit. [24 CFR 966.53]. The Public Housing Occupancy Guidebook refers to tenants as "residents." The terms "tenant" and "resident" are used interchangeably in this policy. Additionally, this policy uses the term "family" or "families" for residents or applicants, depending on context.

Since the HRA owns the public housing development, the HRA is the landlord. The HRA must comply with all of the legal and management responsibilities of a landlord in addition to administering the program in accordance with HUD regulations and HRA policy.

1-II.C. PUBLIC HOUSING PARTNERSHIPS

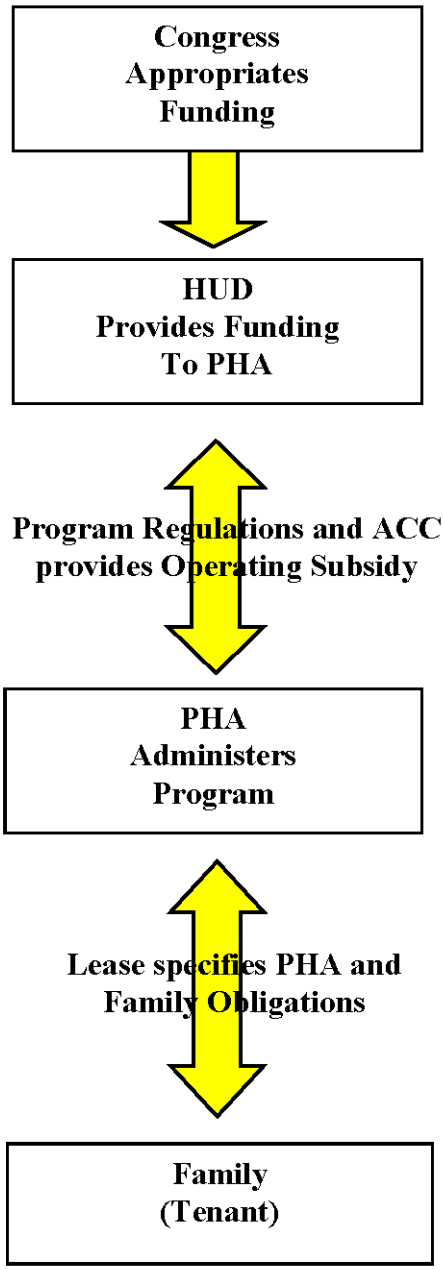
To administer the public housing program, the HRA must enter into an Annual Contributions Contract (ACC) with HUD. The HRA also enters into a contractual relationship with the tenant through the public housing lease. These contracts define and describe the roles and responsibilities of each party.

In addition to the ACC, the HRA and family must also comply with federal regulations and other HUD publications and directives. For the program to work and be successful, all parties involved – HUD, the HRA, and the tenant – play an important role.

The chart on the following page illustrates key aspects of these relationships.

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The Public Housing Relationships



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What does HUD do?

Federal law is the source of HUD responsibilities. HUD has the following major responsibilities:

- Develop regulations, requirements, handbooks, notices and other guidance to implement housing legislation passed by Congress
- Allocate operating subsidies to HRAs
- Allocate capital funding to HRAs
- Provide technical assistance to HRAs on interpreting and applying program requirements
- Monitor HRA compliance with program requirements and HRA performance in program administration.

What does the HRA do?

The HRA's responsibilities originate in federal regulations and the ACC. The HRA owns and manages public housing developments, administers the program under contract with HUD and has the following major responsibilities:

- Ensure compliance with all non-discrimination, equal opportunity, and fair housing laws, and ensure that the program is accessible to persons with disabilities
- Establish local policies and procedures for operating the program
- Accept applications from interested applicant families and determine whether they are income eligible for the program
- Maintain waiting list and select families for admission
- Screen applicant families for suitability as renters
- Maintain housing units by making any necessary repairs in a timely manner
- Make unit offers to families (minimize vacancies without overcrowding)
- Maintain properties to the standard of safe, habitable dwelling units (including assuring compliance with National Standards for the Physical Inspection of Real Estate (NSPIRE))
- Make sure the HRA has adequate financial resources to maintain its housing stock
- Perform regular reexaminations of family income and composition in accordance with HUD requirements
- Collect rent due from the assisted family and comply with and enforce provisions of the lease
- Ensure that families comply with program rules
- Provide families with prompt and professional service
- Comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, the ACC, HUD-approved applications for funding, the HRA's ACOP, and other applicable federal, state and local laws.

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What does the tenant do?

The tenant's responsibilities are articulated in the public housing lease. The tenant has the following broad responsibilities:

- Comply with the terms of the lease and HRA house rules, as applicable
- Provide the HRA with complete and accurate information, determined by the HRA to be necessary for administration of the program
- Cooperate in attending all appointments scheduled by the HRA
- Allow the HRA to inspect the unit at reasonable times and after reasonable notice
- Take responsibility for care of the housing unit, including any violations of NSPIRE caused by the family
- Not engage in drug-related or violent criminal activity
- Notify the HRA before moving or termination of the lease
- Use the assisted unit only for residence and as the sole residence of the family. Not sublet the unit or assign the lease
- Promptly notify the HRA of any changes in family composition
- Not commit fraud, bribery, or any other corrupt or criminal act in connection with any housing programs
- Take care of the housing unit and report maintenance problems to the HRA promptly

If all parties fulfill their obligations in a professional and timely manner, the program responsibilities will be fulfilled in an effective manner.

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1-II.D. APPLICABLE REGULATIONS

Applicable regulations include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 35: Lead-Based Paint
- 24 CFR Part 902: Public Housing Assessment System
- 24 CFR Part 903: Public Housing Agency Plans
- 24 CFR Part 945: Designated Housing
- 24 CFR Part 960: Admission and Occupancy Policies
- 24 CFR Part 965: HRA-Owned or Leased Projects – General Provisions
- 24 CFR Part 966: Lease and Grievance Procedures

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PART III: THE ADMISSIONS AND CONTINUED OCCUPANCY POLICIES

1-III.A. OVERVIEW AND PURPOSE OF THE POLICY

The ACOP is the HRA's written statement of policies used to carry out the housing program in accordance with federal law and regulations, and HUD requirements. The ACOP is required by HUD, and it must be available for public review [CFR 24 Part 903]. The ACOP also contains policies that support the objectives contained in the HRA's Agency Plan.

All issues related to public housing not addressed in this ACOP are governed by federal regulations, HUD handbooks and guidebooks, notices and applicable state and local laws. The policies in this ACOP have been designed to ensure compliance with the consolidated ACC and all HUD-approved applications for program funding. The HRA is responsible for complying with all changes in HUD regulations pertaining to public housing. If such changes conflict with this plan, HUD regulations will have precedence.

1-III.B. CONTENTS OF THE POLICY

Unlike the housing choice voucher program, HUD regulations for public housing do not contain a list of what must be included in the ACOP. However, individual regulations contain requirements of inclusion in the HRA's written policy. At a minimum, the ACOP plan should cover HRA policies on these subjects:

- The organization of the waiting list and how families are selected and offered available units, including any HRA admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening the HRA waiting list (Chapters 4 and 5);
- Transfer policies and the circumstances under which a transfer would take precedence over an admission (Chapter 12);
- Standards for determining eligibility, suitability for tenancy, and the size and type of the unit needed (Chapters 3 and 5);
- Procedures for verifying the information the family has provided (Chapter 7);
- The method for achieving deconcentration of poverty and income-mixing of public housing developments (Chapter 4);
- Grievance procedures (Chapter 14);
- Policies concerning payment by a family to the HRA of amounts the family owes the HRA (Chapter 15 and 16);
- Interim redeterminations of family income and composition (Chapter 9);
- Policies regarding community service requirements (Chapter 11);
- Polices and rules about safety and ownership of pets in public housing (Chapter 10).

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Mandatory vs. Discretionary Policy

HUD makes a distinction between mandatory policies and non-mandatory policies:

- Mandatory policies: those driven by legislation, regulations, current handbooks, current PIH notices, and legal opinions from the Office of General Counsel
- Optional, non-binding guidance: includes guidebooks, FAQs, PIH notices that have expired, and recommendations from individual HUD staff.

HUD expects HRAs to develop policies and procedures that are consistent with mandatory policies and to make clear the optional policies the HRA has adopted. The ACOP is comprised of mandatory policies and optional HRA policy. HUD emphasizes the need for a clearly written and comprehensive ACOP to guide staff in the clear and consistent application of policy.

HUD suggestions, recommendations, written issuances, and guidance are consistent with mandatory federal policy. Therefore, using HUD guidance in the preparation of HRA policy, even though it is not mandatory, provides a HRA with a "safe harbor." If a HRA adopts an alternative policy, it must make its own determination that such policy is consistent with legislation, regulations, and other mandatory requirements. There may be very good reasons for adopting a policy or procedure that is different than that suggested by HUD, but HRAs should carefully think through those decisions and be able to articulate how their policy is consistent with federal laws, regulations and mandatory policy.

1-III.C. UPDATING AND REVISING THE POLICY

The HRA will revise this ACOP as needed to comply with changes in HUD regulations. The original policy and any changes must be approved by the board of commissioners of the HRA, the pertinent sections included in the Agency Plan, and a copy provided to HUD.

HRA Policy

The HRA will review and update the ACOP as needed to reflect changes in regulations, HRA operations, or when needed to ensure staff consistency in operation.

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Chapter 2

FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

This chapter explains the laws and HUD regulations requiring HRAs to affirmatively further civil rights and fair housing in all federally assisted housing programs. The letter and spirit of these laws are implemented through consistent policy and procedures. The responsibility to further nondiscrimination pertains to all areas of the HRA's public housing operations.

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

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

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

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

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PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

Federal laws require HRAs to treat all applicants and tenant families equally, providing the same quality of service, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and disability. In addition, HUD regulations provide for additional protections regarding sexual orientation, gender identity, and marital status. The HRA will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Orders 11063 and 13988
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the *Federal Register* February 3, 2012, and further clarified in Notice PIH 2014-20
- The Violence against Women Act (VAWA)
- Minnesota Human Rights Act (Minn. Stat., § 363)
- Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted

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

HRA Policy

The HRA's policy is to comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment.

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2-I.B. NONDISCRIMINATION

Federal regulations prohibit discrimination against certain protected classes and other groups of people. State and local requirements, as well as HRA policies, can prohibit discrimination against additional classes of people.

The HRA shall not discriminate because of race, color, creed, sex, religion, familial status, age, public assistance, local human rights commission activity, disability or national origin (called "protected classes").

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

The HRA will not discriminate on the basis of marital status, gender identity, or sexual orientation [FR Notice 02/03/12; Executive Order 13988].

HRA Policy

The HRA's policy is to comply fully with all federal, state, and local nondiscrimination laws, including those covered in Minnesota's Human Rights Act (Minn. Stat., § 363).

The HRA will not use any of these factors to:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the public housing program
- Provide housing that is different from that provided to others
- Subject anyone to segregation or disparate treatment
- Subject anyone to sexual harassment
- Restrict anyone's access to any benefit enjoyed by others in connection with the housing program
- Treat a person differently in determining eligibility or other requirements for admission
- Steer an applicant or tenant toward or away from a particular area based on any of these factors
- Deny anyone access to the same level of services
- Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program
- Discriminate in the provision of residential real estate transactions
- Discriminate against someone because they are related to or associated with a member of a protected class
- Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class

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Providing Information to Families

The HRA must take steps to ensure that families are fully aware of all applicable civil rights laws. As part of the public housing orientation process, the HRA will provide information to public housing applicant families about civil rights requirements.

2-I.C. DISCRIMINATION COMPLIANTS

General Housing Discrimination Complaints

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

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

HRA Policy

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

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

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

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

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

HRA Policy

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

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

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

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

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

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VAWA Complaint Processing [Notice FHEO 2023-01]

A complainant may, not later than one year after an alleged VAWA violation has occurred or terminated, file a complaint with FHEO alleging such violation. If there is a violation that began prior to a year before the complaint is filed, but it continues into the one-year time period, HUD will accept the complaint. FHEO will investigate the complaint if it is timely and FHEO otherwise has jurisdiction. If a complaint is filed more than one year after the alleged violation occurred or terminated, FHEO may, but is not required to, investigate the allegations under the additional authority and procedures described in FHEO 2023-01.

Complaints do not need to allege a violation of the Fair Housing Act for FHEO to accept and investigate the complaint.

HRA Policy

Applicants or tenant families who wish to file a VAWA complaint against the HRA may notify the HRA either orally or in writing.

The HRA will advise the family of their right to file a VAWA complaint with HUD's Office of Fair Housing and Equal Opportunity (FHEO). The HRA will inform the family that not later than one year after an alleged VAWA violation has occurred or terminated, applicants and tenants who believe they have been injured by a VAWA violation or will be injured by such a violation that is about to occur may file a VAWA complaint using FHEO's online complaint form via mail, email, or telephone.

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

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

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PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES

2-II.A. OVERVIEW

One type of disability discrimination prohibited by the Fair Housing Act is the refusal to make reasonable accommodation in rules, policies, practices, or services when such accommodation may be necessary to afford a person with a disability the equal opportunity to use and enjoy a program or dwelling under the program.

The HRA must ensure that persons with disabilities have full access to the HRA's programs and services. This responsibility begins with the first inquiry of an interested family and continues through every programmatic area of the public housing program [24 CFR 8].

The HRA must provide a notice to each tenant that the tenant may, at any time during the tenancy, request reasonable accommodation of a handicap of a household member, including reasonable accommodation so that the tenant can meet lease requirements or other requirements of tenancy [24 CFR 966.7(b)].

HRA Policy

The HRA will ask all applicants and resident families if they require any type of accommodations, in writing, on the intake application, reexamination documents, and notices of adverse action by the HRA, by including the following language:

> "If you or anyone in your family is a person with disabilities, and you require a specific accommodation in order to fully utilize our programs and services, please contact the housing authority."

A specific position and phone number will be provided as the contact person for requests for accommodation for persons with disabilities.

The HRA will display posters and other housing information and signage in locations throughout the HRA's office in such a manner as to be easily readable from a wheelchair.

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2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

A “reasonable accommodation” is a change, exception, or adjustment to a policy, practice or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. Since policies and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others will sometimes deny them an equal opportunity to use and enjoy a dwelling. [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]

Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for the HRA, or result in a “fundamental alteration” in the nature of the program or service offered. A fundamental alteration is a modification that alters the essential nature of a provider’s operations.

Types of Reasonable Accommodations

When it is reasonable (see definition above and Section 2-II.E), the HRA shall accommodate the needs of a person with disabilities. Examples include but are not limited to:

- Permitting applications and reexaminations to be completed by mail
- Providing “large-print” forms
- Conducting home visits
- Permitting a higher utility allowance for the unit if a person with disabilities requires the use of specialized equipment related to the disability
- Modifying or altering a unit or physical system if such a modification or alteration is necessary to provide equal access to a person with a disability
- Installing a ramp into a dwelling or building
- Installing grab bars in a bathroom
- Installing visual fire alarms for hearing impaired persons
- Allowing an HRA-approved live-in aide to reside in the unit if that person is determined to be essential to the care of a person with disabilities, is not obligated for the support of the person with disabilities, and would not be otherwise living in the unit.
- Providing a designated handicapped-accessible parking space
- Allowing an assistance animal
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with HRA staff
- Displaying posters and other housing information in locations throughout the HRA's office in such a manner as to be easily readable from a wheelchair

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2-II.C. REQUEST FOR AN ACCOMMODATION

If an applicant or participant indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, HUD requires that the HRA treat the information as a request for a reasonable accommodation, even if no formal request is made [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

The family must explain what type of accommodation is needed to provide the person with the disability full access to the HRA's programs and services.

If the need for the accommodation is not readily apparent or known to the HRA, the family must explain the relationship between the requested accommodation and the disability.

HRA Policy

The HRA will encourage the family to make its request in writing using a reasonable accommodation request form. However, the HRA will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted.

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2-II.D. VERIFICATION OF DISABILITY

The regulatory civil rights definition for persons with disabilities is provided in Exhibit 2-1 at the end of this chapter. The definition of a person with a disability for the purpose of obtaining a reasonable accommodation is much broader than the HUD definition of disability which is used for waiting list preferences and income allowances.

Before providing an accommodation, the HRA must determine that the person meets the definition of a person with a disability, and that the accommodation will enhance the family's access to the HRA's programs and services.

If a person's disability is obvious or otherwise known to the HRA, and if the need for the requested accommodation is also readily apparent or known, no further verification will be required [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

If a family indicates that an accommodation is required for a disability that is not obvious or otherwise known to the HRA, the HRA must verify that the person meets the definition of a person with a disability, and that the limitations imposed by the disability require the requested accommodation.

When verifying a disability, the HRA will follow the verification policies provided in Chapter 7. All information related to a person's disability will be treated in accordance with the confidentiality policies provided in Chapter 16 (Program Administration). In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability:

- Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].
- The HRA must request only information that is necessary to evaluate the disability-related need for the accommodation. The HRA may not inquire about the nature or extent of any disability.
- Medical records will not be accepted or retained in the participant file.
- In the event that the HRA does receive confidential information about a person's specific diagnosis, treatment, or the nature or severity of the disability, the HRA will dispose of it. In place of the information, the HRA will note in the file that the disability and other requested information have been verified, the date the verification was received, and the name and address of the knowledgeable professional who sent the information [Notice PIH 2010-26].

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2-II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act, Notice PIH 2010-26]

The HRA must approve a request for an accommodation if the following three conditions are met.

- The request was made by or on behalf of a person with a disability.
- There is a disability-related need for the accommodation.
- The requested accommodation is reasonable, meaning it would not impose an undue financial and administrative burden on the HRA, or fundamentally alter the nature of the HRA's operations.

Requests for accommodations must be assessed on a case-by-case basis. The determination of undue financial and administrative burden must be made on a case-by-case basis involving various factors, such as the overall size of the HRA's program with respect to the number of employees, type of facilities and size of budget, type of operation including composition and structure of workforce, the nature and cost of the requested accommodation, and the availability of alternative accommodations that would effectively meet the family's disability-related needs.

Before making a determination whether to approve the request, the HRA may enter into discussion and negotiation with the family, request more information from the family, or may require the family to sign a consent form so that the HRA may verify the need for the requested accommodation.

HRA Policy

After a request for an accommodation is presented, the HRA will respond, in writing, within 10 business days.

If the HRA denies a request for an accommodation because there is no relationship, or nexus, found between the disability and the requested accommodation, the notice will inform the family of the right to appeal the HRA's decision through an informal hearing (if applicable) or the grievance process (see Chapter 14).

If the HRA denies a request for an accommodation because it is not reasonable (it would impose an undue financial and administrative burden or fundamentally alter the nature of the HRA's operations), the HRA will discuss with the family whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration to the public housing program and without imposing an undue financial and administrative burden.

If the HRA believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, the HRA will notify the family, in writing, of its determination within 10 business days from the date of the most recent discussion or communication with the family. The notice will inform the family of the right to appeal the HRA's decision through an informal hearing (if applicable) or the grievance process (see Chapter 14).

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2-II.F. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS

HUD regulations require the HRA to take reasonable steps to ensure that persons with disabilities related to hearing and vision have reasonable access to the HRA's programs and services [24 CFR 8.6].

At the initial point of contact with each applicant, the HRA shall inform all applicants of alternative forms of communication that can be used other than plain language paperwork.

HRA Policy

To meet the needs of persons with hearing impairments, TTD/TTY (text telephone display / teletype) communication will be available.

To meet the needs of persons with vision impairments, large-print and audio versions of key program documents will be made available upon request. When visual aids are used in public meetings or presentations, or in meetings with HRA staff, one-on-one assistance will be provided upon request.

Additional examples of alternative forms of communication are sign language interpretation; having material explained orally by staff; or having a third party representative (a friend, relative or advocate, named by the applicant) to receive, interpret and explain housing materials and be present at all meetings.

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2-II.G. PHYSICAL ACCESSIBILITY

The HRA must comply with a variety of regulations pertaining to physical accessibility, including the following.

- Notice PIH 2010-26
- Section 504 of the Rehabilitation Act of 1973
- The Americans with Disabilities Act of 1990
- The Architectural Barriers Act of 1968
- The Fair Housing Act of 1988

The HRA's policies concerning physical accessibility must be readily available to applicants and resident families. They can be found in three key documents.

- This policy, the Admissions and Continued Occupancy Policy, describes the key policies that govern the HRA's responsibilities with regard to physical accessibility.
- Notice PIH 2010-26 summarizes information about pertinent laws and implementing regulations related to nondiscrimination and accessibility in federally-funded housing programs.
- The HRA Plan provides information about self-evaluation, needs assessment, and transition plans.

The design, construction, or alteration of HRA facilities must conform to the Uniform Federal Accessibility Standards (UFAS). Notice PIH 2010-26 contains specific information on calculating the percentages of units for meeting UFAS requirements.

Newly-constructed facilities must be designed to be readily accessible to and usable by persons with disabilities. Alterations to existing facilities must be accessible to the maximum extent feasible, defined as not imposing an undue financial and administrative burden on the operations of the public housing program.

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2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

An HRA's decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of reasonable accommodation [24 CFR 966.7].

When applicants with disabilities are denied assistance, the notice of denial must inform them of their right to request an informal hearing [24 CFR 960.208(a)].

When a family's lease is terminated, the notice of termination must inform the family of their right to request a hearing in accordance with the HRA's grievance process [24 CFR 966.4(l)(3)(ii)].

When reviewing reasonable accommodation requests, the HRA must consider whether reasonable accommodation will allow the family to overcome the problem that led to the HRA's decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, the HRA must make the accommodation [24 CFR 966.7].

In addition, the HRA must provide reasonable accommodation for persons with disabilities to participate in the hearing process [24 CFR 966.56(h)].

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PART III: IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY (LEP)

2-III.A. OVERVIEW

Language for Limited English Proficiency Persons (LEP) can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by the public housing program. In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally-assisted programs and activities may violate the prohibition under Title VI against discrimination on the basis of national origin. This part incorporates the Final Guidance to Federal Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007, in the *Federal Register.*

The HRA will take affirmative steps to communicate with people who need services or information in a language other than English. These persons will be referred to as Persons with Limited English Proficiency (LEP).

LEP persons are defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English. For the purposes of this Admissions and Continued Occupancy Policy, LEP persons are public housing applicants and resident families, and parents and family members of applicants and resident families.

In order to determine the level of access needed by LEP persons, the HRA will balance the following four factors: (1) the number or proportion of LEP persons eligible to be served or likely to be encountered by the public housing program; (2) the frequency with which LEP persons come into contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people's lives; and (4) the resources available to the HRA and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on the HRA.

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2-III.B. ORAL INTERPRETATION

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

HRA Policy

The HRA will utilize a language line for telephone interpreter services.

When exercising the option to conduct remote hearings, however, the HRA will coordinate with a remote interpretation service which, when available, uses video conferencing technology rather than voice-only interpretation.

Where LEP persons desire, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to the free language services offered by the HRA. The HRA, at its discretion, may choose to use the language services even when LEP persons desire to use an interpreter of their choosing. The interpreter may be a family member or friend. If the interpreter chosen by the family is a minor, the HRA will not rely as on the minor to serve as the interpreter.

The HRA will analyze the various kinds of contacts it has with the public, to assess language needs and decide what reasonable steps should be taken. "Reasonable steps" may not be reasonable where the costs imposed substantially exceed the benefits.

Where feasible and possible, according to its language assistance plan (LAP), the HRA will train and hire bilingual staff to be available to act as interpreters and translators, will pool resources with other HRAs, and will standardize documents.

2-III.C. WRITTEN TRANSLATION

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

HRA Policy

In order to comply with written-translation obligations, the HRA will take the following steps:

The HRA will provide written translations of vital documents for each eligible LEP language group that constitutes 5 percent or 1,000 persons, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or

If there are fewer than 50 persons in a language group that reaches the 5 percent trigger, the HRA may not translate vital written materials, but will provide written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

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2-III.D. IMPLEMENTATION PLAN

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

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

HRA Policy

If it is determined that the HRA serves very few LEP persons, and the HRA has very limited resources, the HRA will not develop a written LEP plan, but will consider alternative ways to articulate in a reasonable manner a plan for providing meaningful access. Entities having significant contact with LEP persons, such as schools, grassroots and faith-based organizations, community groups, and groups working with new immigrants will be contacted for input into the process.

If the HRA determines it is appropriate to develop a written LEP plan, the following five steps will be taken: (1) Identifying LEP individuals who need language assistance; (2) identifying language assistance measures; (3) training staff; (4) providing notice to LEP persons; and (5) monitoring and updating the LEP plan.

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EXHIBIT 2-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER FEDERAL CIVIL RIGHTS LAWS [24 CFR Parts 8.3 and 100.201]

A person with a disability, as defined under federal civil rights laws, is any person who:

- Has a physical or mental impairment that substantially limits one or more of the major life activities of an individual, or
- Has a record of such impairment, or
- Is regarded as having such impairment

The phrase "physical or mental impairment" includes:

- Any physiological disorder or condition, cosmetic or disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
- Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to: such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

"Major life activities" includes, but is not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, breathing, learning, and/or working.

"Has a record of such impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major live activities.

"Is regarded as having an impairment" is defined as having a physical or mental impairment that does not substantially limit one or more major life activities but is treated by a public entity (such as the HRA) as constituting such a limitation; has none of the impairments defined in this section but is treated by a public entity as having such an impairment; or has a physical or mental impairment that substantially limits one or more major life activities, only as a result of the attitudes of others toward that impairment.

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The definition of a person with disabilities does not include:

- Current illegal drug users
- People whose alcohol use interferes with the rights of others
- Persons who objectively pose a direct threat or substantial risk of harm to others that cannot be controlled with a reasonable accommodation under the public housing program

The above definition of disability determines whether an applicant or participant is entitled to any of the protections of federal disability civil rights laws. Thus, a person who does not meet this definition of disability is not entitled to a reasonable accommodation under federal civil rights and fair housing laws and regulations.

The HUD definition of a person with a disability is much narrower than the civil rights definition of disability. The HUD definition of a person with a disability is used for purposes of receiving the disabled family preference, the $400 elderly/disabled household deduction, the allowance for medical expenses, or the allowance for disability assistance expenses.

The definition of a person with a disability for purposes of granting a reasonable accommodation request is much broader than the HUD definition of disability. Many people will not qualify as a disabled person under the public housing program, yet an accommodation is needed to provide equal opportunity.

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Chapter 3

ELIGIBILITY

INTRODUCTION

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

To be eligible for the public housing program:

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

This chapter contains three parts:

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

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

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

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PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

3-I.A. OVERVIEW

Some eligibility criteria and program rules vary depending upon the composition of the family requesting assistance. In addition, some requirements apply to the family as a whole and others apply to individual persons who will live in the public housing unit. This part provides information that is needed to correctly identify family and household members and explains HUD's eligibility rules.

3-I.B. FAMILY AND HOUSEHOLD [24 CFR 5.105(a)(2), 24 CFR 5.403, FR Notice 02/03/12, Notice PIH 2014-20, Notice PIH 2023-27, and FR Notice 2/14/23]

The terms *family* and *household* have different meanings in the public housing program.

Family

To be eligible for admission, an applicant must qualify as a family. *Family* as defined by HUD, includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, a single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person; an otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)), and is homeless or is at risk of becoming homeless at age 16 or older; or a group of persons residing together. Such group includes, but is not limited to, a family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family), an elderly family, a near-elderly family, a disabled family, a displaced family, and the remaining member of a tenant family. The HRA has the discretion to determine if any other group of persons qualifies as a family.

Gender Identity means actual or perceived gender characteristics.

Sexual orientation means homosexuality, heterosexuality, or bisexuality.

HRA Policy

A family also includes two or more individuals who are not related by blood, marriage, adoption, or other operation of law, but who either can demonstrate that they have lived together previously or certify that each individual's income and other resources will be available to meet the needs of the family.

Each family must identify the individuals to be included in the family at the time of application and must update this information if the family's composition changes.

Household

Household is a broader term that includes additional people who, with the HRA's permission, live in a public housing unit, such as live-in aides, foster children, and foster adults.

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3-I.C. FAMILY BREAKUP AND REMAINING MEMBER OF TENANT FAMILY

Family Breakup

Except under the following conditions, the HRA has discretion to determine which members of an assisted family continue to receive assistance if the family breaks up:

- If the family breakup results from an occurrence of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the HRA must ensure that the victim retains assistance. (For documentation requirements and policies related to domestic violence, dating violence, sexual assault, stalking, and human trafficking see section 16-VII.D of this ACOP.)
- If a court determines the disposition of property between members of the assisted family, the HRA is bound by the court's determination of which family members continue to receive assistance.

  HRA Policy

  When a family on the waiting list breaks up into two otherwise eligible families, only one of the new families may retain the original application date. Other former family members may submit a new application with a new application date if the waiting list is open.

  If a family breaks up into two otherwise eligible families while living in public housing, only one of the new families will retain occupancy of the unit.

  If a court determines the disposition of property between members of an applicant or resident family, the HRA will abide by the court's determination.

  In the absence of a judicial decision or an agreement among the original family members, the HRA will determine which family will retain their placement on the waiting list or continue in occupancy. In making its determination, the HRA will take into consideration the following factors: (1) the interest of any minor children, including custody arrangements; (2) the interest of any ill, elderly, or disabled family members; (3) the interest of any family member who is or has been the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, including a family member who was forced to leave a public housing unit as a result of such actual or threatened abuse, and provides documentation in accordance with section 16-VII.D of this ACOP; (4) any possible risks to family members as a result of criminal activity, and (5) the recommendations of social service professionals.

Remaining Member of a Tenant Family [24 CFR 5.403]

The HUD definition of family includes the *remaining member of a tenant family,* which is a member of a resident family who remains in the unit when other members of the family have left the unit [PH Occ GB, p. 26]. Household members such as live-in aides, foster children, and foster adults do not qualify as remaining members of a family.

If dependents are the only "remaining members of a tenant family" and there is no family member able to assume the responsibilities of the head of household, see Chapter 6, Section 6-I.B, for the policy on "Caretakers for a Child."

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3-I.D. HEAD OF HOUSEHOLD [24 CFR 5.504(b)]

Head of household means the adult member of the family who is considered the head for purposes of determining income eligibility and rent. The head of household is responsible for ensuring that the family fulfills all of its responsibilities under the program, alone or in conjunction with a cohead or spouse.

HRA Policy

The family may designate any qualified family member as the head of household.

The head of household must have the legal capacity to enter into a lease under state and local law. A minor who is emancipated under state law may be designated as head of household.

3-I.E. SPOUSE, COHEAD, AND OTHER ADULT

A family may have a spouse or cohead, but not both [HUD-50058 IB, p. 13].

Spouse means the marriage partner of the head of household.

HRA Policy

A *marriage partner* includes the partner in a "common law" marriage as defined in state law. The term “spouse” does not apply to friends, roommates, or significant others who are not marriage partners. A minor who is emancipated under state law may be designated as a spouse.

A *cohead* is an individual in the household who is equally responsible with the head of household for ensuring that the family fulfills all of its responsibilities under the program, but who is not a spouse. A family can have only one cohead.

HRA Policy

Minors who are emancipated under state law may be designated as a cohead.

Other adult means a family member, other than the head, spouse, or cohead, who is 18 years of age or older. Foster adults and live-in aides are not considered other adults [HUD-50058 IB, p. 14].

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3-I.F. DEPENDENTS AND MINORS [24 CFR 5.603]

A *minor* is a member of the family, other than the head of family or spouse, who is under 18 years of age.

A *dependent* is a family member who is under 18 years of age or a person of any age who is a person with a disability or a full-time student, except that the following persons can never be dependents: the head of household, spouse, cohead, foster children/adults and live-in aides. Identifying each dependent in the family is important because each dependent qualifies the family for a deduction from annual income as described in Chapter 6.

Joint Custody of Dependents

HRA Policy

Dependents that are subject to a joint custody arrangement will be considered a member of the family if they live with the applicant or resident family 50 percent or more of the time.

When more than one applicant or assisted family (regardless of program) are claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the HRA will make the determination based on available documents such as court orders, an IRS income tax return showing which family has claimed the child for income tax purposes, school records, or other credible documentation.

3-I.G. FULL-TIME STUDENT [24 CFR 5.603]

A *full-time student* (FTS) is a person who is attending school or vocational training on a full-time basis. The time commitment or subject load that is needed to determine if attendance is full-time is defined by the educational institution.

Identifying each FTS is important because (1) each family member that is an FTS, other than the head, spouse, or cohead, qualifies the family for a dependent deduction and (2) the income of such an FTS is treated differently from the income of other family members.

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3-I.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY [24 CFR 5.100, 5.403, 945.105, and FR Notice 02/03/12]

Elderly Persons

An *elderly person* is a person who is at least 62 years of age.

Near-Elderly Persons

A *near-elderly person* is a person who is 50-61 years of age.

Elderly Family

An *elderly family* is one in which the head, spouse, cohead, or sole member is an elderly person. Identifying elderly families is important because these families qualify for the elderly family allowance and the medical allowance as described in Chapter 6 and may qualify for a particular type of development as noted in Chapter 4.

3-I.I. PERSONS WITH DISABILITIES AND DISABLED FAMILY [24 CFR 5.403, FR Notice 02/03/12]

Persons with Disabilities

Under the public housing program, special rules apply to persons with disabilities and to any family whose head, spouse, or cohead is a person with disabilities. The technical definitions of individual with handicaps and persons with disabilities are provided in Exhibit 3-1 at the end of this chapter. These definitions are used for a number of purposes including ensuring that persons with disabilities are not discriminated against based upon disability.

As discussed in Chapter 2, the HRA must make all aspects of the public housing program accessible to persons with disabilities and consider requests for reasonable accommodations when a person's disability limits their full access to the unit, the program, or the HRA's services.

Disabled Family

A *disabled family* is one in which the head, spouse, or cohead is a person with disabilities. Identifying disabled families is important because these families qualify for the disabled family allowance and the medical allowance as described in Chapter 6 and may qualify for a particular type of development as noted in Chapter 4.

Even though persons with drug or alcohol dependencies are considered persons with disabilities for the purpose of non-discrimination, this does not prevent the HRA from denying admission or taking action under the lease for reasons related to alcohol and drug abuse in accordance with the policies found in Part III of this chapter and in Chapter 13.

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3-I.J. GUESTS [24 CFR 5.100]

A *guest* is defined as a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.

The lease must provide that the tenant has the right to exclusive use and occupancy of the leased unit by the members of the household authorized to reside in the unit in accordance with the lease, including reasonable accommodation of their guests [24 CFR 966.4(d)]. The head of household is responsible for the conduct of visitors and guests, inside the unit as well as anywhere on or near HRA premises [24 CFR 966.4(f)].

HRA Policy

A resident family must notify the HRA when overnight guests will be staying in the unit for more than three days. A guest can remain in the unit no longer than 14 consecutive days or a total of 30 cumulative calendar days during any 12-month period.

A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure expected to last 20 consecutive days). An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that are not included as a family member because they live outside of the public housing unit more than 50 percent of the time, are not subject to the time limitations of guests as described above.

Former residents who have been evicted are not permitted as overnight guests.

Guests who represent the public housing unit address as their residence address or address of record for receipt of benefits or any other purposes will be considered unauthorized occupants. In addition, guests who remain in the unit beyond the allowable time limit will be considered to be unauthorized occupants, and their presence constitutes a violation of the lease.

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3-I.K. FOSTER CHILDREN AND FOSTER ADULTS [24 CFR 5.603]

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.

A *foster child* is 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 and foster adults that are living with an applicant or resident family are considered household members but not family members. The income of foster children/adults is not counted in family annual income and foster children/adults do not qualify for a dependent deduction [24 CFR 5.603 and HUD-50058 IB, pp. 13-14].

HRA Policy

A foster child or foster adult may be allowed to reside in the unit if their presence would not overcrowd the unit.

Children that are temporarily absent from the home as a result of placement in foster care are discussed in Section 3-I.L.

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3-I.L. ABSENT FAMILY MEMBERS

Individuals may be temporarily or permanently absent from the unit for a variety of reasons including educational activities, placement in foster care, employment, and illness.

Definitions of Temporarily and Permanently Absent

HRA Policy

Generally, an individual who is or is expected to be absent from the public housing unit for 180 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally, an individual who is or is expected to be absent from the public housing unit for more than 180 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Students

HRA Policy

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to the HRA indicating that the student has established a separate household or the family declares that the student has established a separate household.

Absences Due to Placement in Foster Care [24 CFR 5.403]

Children temporarily absent from the home as a result of placement in foster care are considered members of the family.

HRA Policy

If a child has been placed in foster care, the HRA will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.

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Absent Head, Spouse, or Cohead

HRA Policy

An employed head, spouse, or cohead absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member.

Individuals Confined for Medical Reasons

HRA Policy

An individual confined to a nursing home or hospital on a permanent basis is not considered a family member.

If there is a question about the status of a family member, the HRA will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

Return of Permanently Absent Family Members

HRA Policy

The family must request HRA approval for the return of any adult family members that the HRA has determined to be permanently absent. The individual is subject to the eligibility and screening requirements discussed in this chapter.

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3-I.M. LIVE-IN AIDE

Live-in aide means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who: (1) is determined to be essential to the care and well-being of the person(s), (2) is not obligated for the support of the person(s), and (3) would not be living in the unit except to provide the necessary supportive services [24 CFR 5.403].

The HRA must approve a live-in aide if needed as a reasonable accommodation for a person with disabilities in accordance with 24 CFR 8.

A live-in aide is considered a household member but not a family member. The income of the live-in aide is not counted in determining the annual income of the family [24 CFR 5.609(c)(5)]. Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. However, a relative who serves as a live-in aide is not considered a family member and would not be considered a remaining member of a tenant family.

HRA Policy

A family's request for a live-in aide may be made either orally or in writing. The HRA will verify the need for a live-in aide, if necessary, with a reliable, knowledgeable professional as provided by the family, such as a doctor, social worker, or case worker. For continued approval, the family may be required to submit a new, written request—subject to HRA verification—at each annual reexamination.

In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is (1) not obligated for the support of the person(s) needing the care, and (2) would not be living in the unit except to provide the necessary supportive services.

The HRA has the discretion not to approve a particular person as a live-in aide, and may withdraw such approval, if [24 CFR 966.4(d)(3)(i)]:

- The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The person has a history of drug-related criminal activity or violent criminal activity; or
- The person currently owes rent or other amounts to the HRA or to another HRA in connection with Section 8 or public housing assistance under the 1937 Act.

Within 10 business days of receiving a request for a live-in aide, including all required documentation related to the request, the HRA will notify the family of its decision in writing.

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PART II: BASIC ELIGIBILITY CRITERIA

3-II.A. INCOME ELIGIBILITY AND TARGETING

Income Limits

HUD is required by law to establish income limits that determine the income eligibility of applicants for HUD's assisted housing programs, including the public housing program. The income limits are published annually and are based on HUD estimates of the median incomes for families of different sizes in a particular area or county.

Types of Low-Income Families [24 CFR 5.603(b)]

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

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

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

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

HUD also publishes over-income limits annually, but these are not used at admission. Over-income limits will be discussed in Chapter 13.

Using Income Limits for Eligibility [24 CFR 960.201 and Notice PIH 2023-27]

Income limits are used to determine eligibility at admission. Eligibility is established by comparing a family's annual income with HUD's published income limits. To be income-eligible, a family must be a *low-income* family. Income and net family assets of household members are excluded when determining income eligibility; however, household members are considered for purposes of unit size and subsidy standards.

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Using Income Limits for Targeting [24 CFR 960.202(b)]

At least 40 percent of the families admitted from the HRA waiting list to the public housing program during a HRA fiscal year must be *extremely low-income* families. This is called the "basic targeting requirement."

If admissions of extremely low-income families to the HRA's housing choice voucher program during a HRA fiscal year exceed the 75 percent minimum targeting requirement for that program, such excess shall be credited against the HRA's public housing basic targeting requirement for the same fiscal year.

The fiscal year credit for housing choice voucher program admissions that exceed the minimum voucher program targeting requirement must not exceed the lower of:

- Ten percent of public housing waiting list admissions during the HRA fiscal year
- Ten percent of waiting list admission to the HRA's housing choice voucher program during the HRA fiscal year
- The number of qualifying low-income families who commence occupancy during the fiscal year of public housing units located in census tracts with a poverty rate of 30 percent or more. For this purpose, qualifying low-income family means a low-income family other than an extremely low-income family.

For discussion of how income targeting is used in tenant selection, see Chapter 4.

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

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

All applicant families must be notified of the requirement to submit evidence of their citizenship status when they apply. Where feasible, and in accordance with the HRA's Limited English Proficiency Plan, the notice must be in a language that is understood by the individual if the individual is not proficient in English.

Declaration [24 CFR 5.508]

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

U.S. Citizens and Nationals

In general, citizens and nationals are required to submit only a signed declaration that claims their status. However, HUD regulations permit the HRA to request additional documentation of their status, such as a passport.

HRA Policy

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

Eligible Noncitizens

In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and cooperate with HRA efforts to verify their immigration status as described in Chapter 7. The documentation required for establishing eligible noncitizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, the person's age, and the date on which the family began receiving HUD-funded assistance.

Lawful residents of the Marshall Islands, the Federated States of Micronesia, and Palau, together known as the Freely Associated States, or FAS, are eligible for housing assistance under section 141 of the Compacts of Free Association between the U.S. Government and the Governments of the FAS [Public Law 106-504].

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Ineligible Noncitizens

Those noncitizens who do not wish to contend their immigration status are required to have their names listed on a noncontending family members listing, signed by the head, spouse, or cohead (regardless of citizenship status), indicating their ineligible immigration status. The HRA is not required to verify a family member's ineligible status and is not required to report an individual's unlawful presence in the U.S. to the United States Citizenship and Immigration Services (USCIS).

Providing housing assistance to noncitizen students is prohibited [24 CFR 5.522]. This prohibition extends to the noncitizen spouse of a noncitizen student as well as to minor children who accompany or follow to join the noncitizen student. Such prohibition does not extend to the citizen spouse of a noncitizen student or to the children of the citizen spouse and noncitizen student. Such a family is eligible for prorated assistance as a mixed family.

Mixed Families

A family is eligible for admission as long as at least one member is a citizen, national, or eligible noncitizen. Families that include eligible and ineligible individuals are considered *mixed families*. Such families will be given notice that their assistance will be prorated, and that they may request a hearing if they contest this determination. See Chapter 6 for a discussion of how rents are prorated, and Chapter 14 for a discussion of grievance hearing procedures.

Ineligible Families [24 CFR 5.514(d), (e), and (f)]

A HRA may elect to provide assistance to a family before the verification of the eligibility of the individual or one family member [24 CFR 5.512(b)]. Otherwise, no individual or family may be assisted prior to the affirmative establishment by the HRA that the individual or at least one family member is eligible [24 CFR 5.512(a)].

HRA Policy

The HRA will not provide assistance to a family before the verification of at least one family member as a citizen, national, or eligible noncitizen.

When a HRA determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice within 10 business days of the determination.

The notice will explain the reasons for the denial of assistance and will advise the family of its right to request an appeal to the United States Citizenship and Immigration Services (USCIS), or to request a grievance hearing with the HRA. The grievance hearing with the HRA may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice must also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the grievance hearing process.

Grievance hearing procedures are contained in Chapter 14.

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Time Frame for Determination of Citizenship Status [24 CFR 5.508(g)]

For new occupants joining the resident family the HRA must verify status at the first interim or regular reexamination following the person's occupancy, whichever comes first.

If an individual qualifies for a time extension for the submission of required documents, the HRA must grant such an extension for no more than 30 days [24 CFR 5.508(h)].

Each family member is required to submit evidence of eligible status only one time during continuous occupancy.

HRA Policy

The HRA will verify the status of applicants at the time other eligibility factors are determined.

3-II.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218, Notice PIH 2018-24]

The applicant and all members of the applicant's household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN. If a child under age six has been added to an applicant family within the six months prior to program admission, an otherwise eligible family may be admitted to the program and must disclose and document the child's SSN within 90 days of admission. A detailed discussion of acceptable documentation is provided in Chapter 7.

Note: These requirements do not apply to noncitizens who do not contend eligible immigration status.

In addition, each participant who has not previously disclosed an SSN, has previously disclosed an SSN that HUD or the SSA determined was invalid, or has been issued a new SSN must submit their complete and accurate SSN and the documentation required to verify the SSN at the time of the next interim or annual reexamination or recertification. Participants age 62 or older as of January 31, 2010, whose determination of eligibility was begun before January 31, 2010, are exempt from this requirement and remain exempt even if they move to a new assisted unit.

The HRA must deny assistance to an applicant family if they do not meet the SSN disclosure and documentation requirements contained in 24 CFR 5.216.

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3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.232]

HUD requires each adult family member, and the head of household, spouse, or cohead, regardless of age, to sign form HUD-9886, Authorization for the Release of Information Privacy Act Notice, the form HUD-52675, Debts Owed to Public Housing Agencies and Terminations, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements. The consent form remains effective until the family is denied assistance, assistance is terminated, or the family provides written notification to revoke consent.

The HRA must deny admission to the program if any member of the applicant family fails to sign and submit consent forms which allow the HRA to obtain information that the HRA has determined is necessary in administration of the public housing program [24 CFR 960.259(a) and (b) and 24 CFR 5.232(a)].

However, this does not apply if the applicant or participant, or any member of their family, revokes their consent with respect to the ability of the HRA to access financial records from financial institutions, unless the HRA establishes a policy that revocation of consent to access financial records will result in denial or termination of assistance or admission [24 CFR 5.232(c)].

HRA Policy

The HRA has established a policy that the family's revocation of consent to allow the HRA to access records from financial institutions will result in denial of admission.

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3-II.E. EIV SYSTEM SEARCHES [EIV FAQs; EIV System Training 9/30/20; and Notice PIH 2023-27]

Existing Tenant Search

Prior to admission to the program, the HRA must search for all household members using the EIV Existing Tenant Search module. The HRA must review the reports for any SSA matches involving another HRA or a multifamily entity and follow up on any issues identified. The HRA must provide the family with a copy of the Existing Tenant Search results if requested. At no time may any family member receive duplicative assistance.

If the tenant is a new admission to the HRA, and a match is identified at a multifamily property, the HRA must report the program admission date to the multifamily property and document the notification in the tenant file. The family must provide documentation of move-out from the assisted unit, as applicable.

HRA Policy

The HRA will contact the other HRA or owner identified in the report to confirm that the family has moved out of the unit and obtain documentation of current tenancy status, including a form HUD-50058 or 50059, as applicable, showing an end of participation. The HRA will only approve assistance contingent upon the move-out from the currently occupied assisted unit.

Debts Owed to HRAs and Terminations

All adult household members must sign the form HUD-52675, Debts Owed to Public Housing and Terminations. Prior to admission to the program, the HRA must search for each adult family member in the Debts Owed to HRAs and Terminations module.

If a current or former tenant disputes the information in the module, the tenant should contact the HRA directly in writing to dispute the information and provide any documentation that supports the dispute. If the HRA determines that the disputed information is incorrect, the HRA will update or delete the record from EIV. Former tenants may dispute debt and termination information for a period of up to three years from the end of participation date in the program.

HRA Policy

The HRA will require each adult household member to sign the form HUD-52675 once at the eligibility determination. Any new members added to the household after admission will be required to sign the form HUD-52675 prior to being added to the household.

The HRA will search the Debts Owed to HRAs and Terminations module as part of the eligibility determination for new households and as part of the screening process for any household members added after the household is admitted to the program. If any information on debts or terminations is returned by the search, the HRA will determine if this information warrants a denial in accordance with the policies in Part III of this chapter.

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Income and Income Validation Tool (IVT) Reports

For each new admission, the HRA is required to review the EIV Income and IVT Reports to confirm and validate family reported income within 120 days of the IMS/PIC submission date of the new admission. The HRA must print and maintain copies of the EIV Income and IVT reports in the tenant file and resolve any discrepancies with the family within 60 days of the EIV Income or IVT report dates.

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PART III: DENIAL OF ADMISSION

3-III.A. OVERVIEW

A family that does not meet the eligibility criteria discussed in Parts I and II must be denied admission.

In addition, HUD requires or permits the HRA to deny admission based on certain types of current or past behaviors of family members as discussed in this part. The HRA's authority in this area is limited by the Violence against Women Act (VAWA), which prohibits the denial of admission to an otherwise qualified applicant on the basis or as a direct result of the fact that the applicant is or has been the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking [see 24 CFR 5.2005(b)].

While the regulations state that the HRA must prohibit admission for certain types of criminal activity and give the HRA the option to deny for other types of previous criminal history, more recent HUD rules and OGC guidance must also be taken into consideration when determining whether a particular individual's criminal history merits denial of admission.

When considering any denial of admission, HRAs may not use arrest records as the basis for the denial. Further, HUD does not require the adoption of "One Strike" policies and reminds HRAs of their obligation to safeguard the due process rights of applicants and tenants [Notice PIH 2015-19].

HUD's Office of General Counsel issued a memo on April 4, 2016, regarding the application of Fair Housing Act standards to the use of criminal records. This memo states that a HRA violates the Fair Housing Act when their policy or practice has an unjustified discriminatory effect, even when the HRA had no intention to discriminate. Where a policy or practice that restricts admission based on criminal history has a disparate impact on a particular race, national origin, or other protected class, that policy or practice is in violation of the Fair Housing Act if it is not necessary to serve a substantial, legitimate, nondiscriminatory interest of the HRA, or if that interest could be served by another practice that has a less discriminatory effect [OGC Memo 4/4/16]. HUD codified this stance on disparate impact and discriminatory effects in a final rule dated March 31, 2023. In doing so, HUD also standardized its long-practiced three-step approach to assessing burdens of proof.

HRAs who impose blanket prohibitions on any person with any conviction record, no matter when the conviction occurred, what the underlying conduct entailed, or what the convicted person has done since then will be unable to show that such policy or practice is necessary to achieve a substantial, legitimate, nondiscriminatory interest. Even a HRA with a more tailored policy or practice that excludes individuals with only certain types of convictions must still prove that its policy is necessary. To do this, the HRA must show that its policy accurately distinguishes between criminal conduct that indicates a demonstrable risk to resident safety and property and criminal conduct that does not.

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This part covers the following topics:

- Required denial of admission
- The asset limitation in public housing
- Other permitted reasons for denial of admission
- Screening
- Criteria for deciding to deny admission
- Prohibition against denial of admission to victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking
- Notice of eligibility or denial

3-III.B. REQUIRED DENIAL OF ADMISSION [24 CFR 960.204]

HRAs are required to establish standards that prohibit admission of an applicant to the public housing program if they have engaged in certain criminal activity or if the HRA has reasonable cause to believe that a household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

Where the statute requires that the HRA prohibit admission for a prescribed period of time after some disqualifying behavior or event, the HRA may choose to continue that prohibition for a longer period of time [24 CFR 960.203(c)(3)(ii)].

HUD requires the HRA to deny assistance in the following cases:

- Any member of the household has been evicted from federally assisted housing in the last three years for drug-related criminal activity. HUD permits but does not require the HRA to admit an otherwise-eligible family if the household member has completed a HRA-approved drug rehabilitation program or the circumstances which led to eviction no longer exist (e.g. the person involved in the criminal activity no longer lives in the household).

  HRA Policy

  The HRA will admit an otherwise-eligible family who was evicted from federally assisted housing within the past three years for drug-related criminal activity, if the HRA is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by the HRA, or the person who committed the crime is no longer living in the household.

- The HRA determines that any household member is currently engaged in the use of illegal drugs. *Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802]. *Currently engaged in the illegal use of a drug* means a person has engaged in the behavior recently enough to justify a reasonable belief that there is continuing illegal drug use by a household member [24 CFR 960.205(b)(1)].

  HRA Policy

  Currently engaged in is defined as any use of illegal drugs during the previous three months.

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- The HRA has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol, may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

  HRA Policy

  In determining reasonable cause, the HRA will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. A record or records of arrest will not be used as the sole basis for the denial or proof that the applicant engaged in disqualifying criminal activity. The HRA will also consider evidence from treatment providers or community-based organizations providing services to household members.

- If any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine in any location, not just federally assisted housing, the family will be denied admission.
- Any household member is subject to a lifetime registration requirement under a state lifetime sex offender registration program.

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

There are two circumstances under which a family is ineligible for the program based on asset ownership.

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

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

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

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

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

  HRA Policy

  The HRA defines *not sufficient for the size of the family* as being overcrowded based on the HRA's occupancy standards in Chapter 5.

- Is geographically located so as to be a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by the HRA or owner);

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

3-III.D. OTHER PERMITTED REASONS FOR DENIAL OF ADMISSION

HUD permits but does not require the HRA to deny admission for the reasons discussed in this section.

Criminal Activity [24 CFR 960.203(c)]

The HRA is responsible for screening family behavior and suitability for tenancy. In doing so, the HRA may consider an applicant's history of criminal activity involving crimes of physical violence to persons or property and other criminal acts which would adversely affect the health, safety, or welfare of other tenants.

HRA Policy

If any household member is currently engaged in or has engaged in any of the following criminal activities within the past three years, the family will be denied admission.

Drug-related criminal activity, defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug [24 CFR 5.100].

Violent criminal activity, defined by HUD as any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage [24 CFR 5.100].

Criminal activity that may threaten the health, safety, or welfare of other tenants [24 CFR 960.203(c)(3)].

Criminal activity that may threaten the health or safety of HRA staff, contractors, subcontractors, or agents.

Criminal sexual conduct, including but not limited to sexual assault, incest, open and gross lewdness, or child abuse.

Evidence of such criminal activity includes, but is not limited to:

Any record of convictions, arrests, or evictions for suspected drug-related or violent criminal activity of household members within the past three years.

A record or records of arrest will not be used as the sole basis for the denial or proof that the applicant engaged in disqualifying criminal activity.

In making its decision to deny assistance, the HRA will consider the factors discussed in Sections 3-III.F and 3-III.G. Upon consideration of such factors, the HRA may, on a case-by-case basis, decide not to deny assistance.

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Previous Behavior [960.203(c) and (d) and PH Occ GB, p. 48]

HUD authorizes the HRA to deny admission based on relevant information pertaining to the family's previous behavior and suitability for tenancy.

In the event of the receipt of unfavorable information with respect to an applicant, the HRA must consider the time, nature, and extent of the applicant's conduct (including the seriousness of the offense). As discussed in Section 3-III.F, the HRA may also need to consider whether the cause of the unfavorable information may be that the applicant is the victim of domestic violence, dating violence, sexual assault, or stalking.

HRA Policy

The HRA will deny admission to an applicant family if the HRA determines that the family:

Has a pattern of unsuitable past performance in meeting financial obligations, including rent within the past three years.

Has a pattern of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences within the past three years which may adversely affect the health, safety, or welfare of other tenants.

Owes rent or other amounts to this or any other HRA or owner in connection with any assisted housing program.

Misrepresented or does not provide complete information related to eligibility, including income, award of preferences for admission, expenses, family composition or rent.

Has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program in the last three years.

Owes rent or other amounts to any HRA in connection with Section 8, public housing, or other public housing assistance under the 1937 Act, unless the family repays the full amount of the debt prior to being selected from the waiting list.

When denying admission due to family debts as shown in HUD's EIV system, the HRA will provide the family with a copy of the EIV Debt Owed to HRA and Termination report.

If the family wishes to dispute the information in the report, the family must contact the HRA that entered the information in EIV in writing, explaining why EIV information is disputed. The family must also provide a copy of the letter and all applicable verification to the HRA to support the family's claim. The HRA will consider the information provided by the family prior to issuing a notice of denial.

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Has engaged in or threatened violent or abusive behavior toward HRA personnel.

Abusive or violent behavior towards HRA personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to deny admission, the HRA will consider the factors discussed in Sections 3-III.F and 3-III.G. Upon consideration of such factors, the HRA may, on a case-by-case basis, decide not to deny admission.

The HRA will consider the existence of mitigating factors, such as loss of employment or other financial difficulties, before denying admission to an applicant based on the failure to meet prior financial obligations.

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3-III.E. SCREENING

Screening for Eligibility

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

The HRA may not pass along to the applicant the costs of a criminal records check [24 CFR 960.204(d)].

HRA Policy

The HRA will perform criminal background checks through local law enforcement and Yardi Screening for all adult household members.

If the results of the criminal background check indicate there may have been past criminal activity, but the results are inconclusive, the HRA will request a fingerprint card and will request information from the National Crime Information Center (NCIC).

HRAs are required to perform criminal background checks necessary to determine whether any household member is subject to a lifetime registration requirement under a state sex offender program in the state where the housing is located, as well as in any other state where a household member is known to have resided [24 CFR 960.204(a)(4)].

HRA Policy

The HRA will use the Dru Sjodin National Sex Offender database to screen applicants for admission.

Additionally, HRAs must ask whether the applicant, or any member of the applicant's household, is subject to a lifetime registered sex offender registration requirement in any state [Notice PIH 2012-28].

If the HRA proposes to deny admission based on a criminal record or on lifetime sex offender registration information, the HRA must notify the household of the proposed action and must provide the subject of the record and the applicant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to a denial of admission [24 CFR 5.903(f) and 5.905(d)].

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Obtaining Information from Drug Treatment Facilities [24 CFR 960.205]

HUD authorizes HRAs to request and obtain information from drug abuse treatment facilities concerning applicants. Specifically, the HRA may require each applicant to submit for all household members who are at least 18 years of age, and for each family head, spouse, or cohead regardless of age, one or more consent forms signed by such household members that requests any drug abuse treatment facility to inform the HRA whether the drug abuse treatment facility has reasonable cause to believe that the household member is currently engaging in illegal drug use.

Drug Abuse Treatment Facility means an entity that holds itself out as providing, and provides, diagnosis, treatment, or referral for treatment with respect to the illegal drug use, and is either an identified unit within a general care facility, or an entity other than a general medical care facility.

Currently engaging in illegal use of a drug means illegal use of a drug that occurred recently enough to justify a reasonable belief that there is continuing illegal drug use by a household member.

Any consent form used for the purpose of obtaining information from a drug abuse treatment facility to determine whether a household member is currently engaging in illegal drug use must expire automatically after the HRA has made a final decision to either approve or deny the admission of such person.

Any charges incurred by the HRA for information provided from a drug abuse treatment facility may not be passed on to the applicant or tenant.

If the HRA chooses to obtain such information from drug abuse treatment facilities, it must adopt and implement one of the two following policies:

Policy A: The HRA must submit a request for information to a drug abuse treatment facility for all families before they are admitted. The request must be submitted for each proposed household member who is at least 18 years of age, and for each family head, spouse, or cohead regardless of age.

Policy B: The HRA must submit a request for information only for certain household members, whose criminal record indicates prior arrests or conviction for any criminal activity that may be a sole basis for denial of admission or whose prior tenancy records indicate that the proposed household member engaged in destruction of property or violent activity against another person, or they interfered with the right of peaceful enjoyment of the premises of other residents.

If the HRA chooses to obtain such information, it must abide by the HUD requirements for records management and confidentiality as described in 24 CFR 960.205(f).

HRA Policy

The HRA will obtain information from drug abuse treatment facilities to determine whether any applicant family's household members are currently engaging in illegal drug activity only when the HRA has determined that the family will be denied admission based on a family member's drug-related criminal activity, and the family claims that the culpable family member has successfully completed a supervised drug or alcohol rehabilitation program.

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Screening for Suitability as a Tenant [24 CFR 960.203(c)]

The HRA is responsible for the screening and selection of families to occupy public housing units. The HRA may consider all relevant information. Screening is important to public housing communities and program integrity, and to ensure that assisted housing is provided to those families that will adhere to lease obligations.

HRA Policy

The HRA will consider the family's history with respect to the following factors:

Payment of rent and utilities

Caring for a unit and premises

Respecting the rights of other residents to the peaceful enjoyment of their housing

Criminal activity that is a threat to the health, safety, or property of others

Behavior of all household members as related to the grounds for denial as detailed in Sections 3-III. B and C

Compliance with any other essential conditions of tenancy

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Resources Used to Check Applicant Suitability [PH Occ GB, pp. 47-56]

HRAs have a variety of resources available to them for determination of the suitability of applicants. Generally, HRAs should reject applicants who have recent behavior that would warrant lease termination for a public housing resident.

HRA Policy

In order to determine the suitability of applicants the HRA will examine applicant history for the past three years. Such background checks will include:

Past Performance in Meeting Financial Obligations, Especially Rent

HRA and landlord references for the past three years, gathering information about past performance meeting rental obligations such as rent payment record, late payment record, whether the HRA/landlord ever began or completed lease termination for non-payment, and whether utilities were ever disconnected in the unit. HRAs and landlords will be asked if they would rent to the applicant family again.

Utility company references covering the monthly amount of utilities, late payment, disconnection, return of a utility deposit and whether the applicant can get utilities turned on in their name. (Use of this inquiry will be reserved for applicants applying for units where there are tenant-paid utilities.)

If an applicant has no rental payment history the HRA will check court records of eviction actions and other financial judgments, and credit reports. A lack of credit history will not disqualify someone from becoming a public housing resident, but a poor credit rating may.

Applicants with no rental payment history will also be asked to provide the HRA with personal references. The references will be requested to complete a verification of the applicant's ability to pay rent if no other documentation of ability to meet financial obligations is available. The applicant will also be required to complete a checklist documenting their ability to meet financial obligations.

If previous landlords or the utility company do not respond to requests from the HRA, the applicant may provide other documentation that demonstrates their ability to meet financial obligations (e.g. rent receipts, cancelled checks, etc.)

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Disturbances of Neighbors, Destruction of Property or Living or Housekeeping Habits at Prior Residences that May Adversely Affect Health, Safety, or Welfare of Other Tenants, or Cause Damage to the Unit or the Development

HRA and landlord references for the past three years, gathering information on whether the applicant kept a unit clean, safe and sanitary; whether they violated health or safety codes; whether any damage was done by the applicant to a current or previous unit or the development, and, if so, how much the repair of the damage cost; whether the applicant's housekeeping caused insect or rodent infestation; and whether the neighbors complained about the applicant or whether the police were ever called because of disturbances.

Police and court records within the past three years will be used to check for any evidence of disturbance of neighbors or destruction of property that might have resulted in arrest or conviction. A record or records of arrest will not be used as the sole basis for the denial or proof that the applicant engaged in disqualifying activity.

A personal reference will be requested to complete a verification of the applicant's ability to care for the unit and avoid disturbing neighbors if no other documentation is available. In these cases, the applicant will also be required to complete a checklist documenting their ability to care for the unit and to avoid disturbing neighbors.

Home visits may be used to determine the applicant's ability to care for the unit.

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3-III.F. CRITERIA FOR DECIDING TO DENY ADMISSION

Evidence

HRA Policy

The HRA will use the preponderance of the evidence as the standard for making all admission decisions.

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

Consideration of Circumstances [24 CFR 960.203(c)(3) and (d)]

HUD authorizes the HRA to consider all relevant circumstances when deciding whether to deny admission based on a family's past history except in the situations for which denial of admission is mandated (see Section 3-III.B).

In the event the HRA receives unfavorable information with respect to an applicant, consideration must be given to the time, nature, and extent of the applicant's conduct (including the seriousness of the offense). In a manner consistent with its policies, HRAs may give consideration to factors which might indicate a reasonable probability of favorable future conduct.

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HRA Policy

The HRA will consider the following facts and circumstances prior to making its decision:

The seriousness of the case, especially with respect to how it would affect other residents' safety or property

The effects that denial of admission may have on other members of the family who were not involved in the action or failure to act

The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or (as discussed further in section 3-III.F) a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking

The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history and the likelihood of favorable conduct in the future

While a record or records of arrest will not be used as the sole basis for denial, an arrest may trigger an investigation to determine whether the applicant actually engaged in disqualifying criminal activity. As part of its investigation, the HRA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The HRA may also consider:

Any statements made by witnesses or the applicant not included in the police report

Whether criminal charges were filed

Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal

Any other evidence relevant to determining whether or not the applicant engaged in disqualifying activity

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

Evidence of the applicant family's participation in or willingness to participate in social service or other appropriate counseling service programs

In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully

The HRA will require the applicant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

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Removal of a Family Member's Name from the Application

Should the HRA's screening process reveal that an applicant's household includes an individual subject to state lifetime registered sex offender registration, the HRA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the HRA must deny admission to the family [Notice PIH 2012-28].

For other criminal activity, the HRA may permit the family to exclude the culpable family members as a condition of eligibility. [24 CFR 960.203(c)(3)(i)].

HRA Policy

As a condition of receiving assistance, a family may agree to remove the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to visit or to stay as a guest in the public housing unit.

After admission to the program, the family must present evidence of the former family member's current address upon HRA request.

Reasonable Accommodation [PH Occ GB, pp. 58-60]

If the family includes a person with disabilities, the HRA's decision concerning denial of admission is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

HRA Policy

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

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3-III.G. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING, AND HUMAN TRAFFICKING

The Violence against Women Act (VAWA) and the HUD regulation at 24 CFR 5.2005(b) prohibit HRAs from denying admission to an otherwise qualified applicant on the basis or as a direct result of the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

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

Definitions of key terms used in VAWA are provided in section 16-VII of this ACOP, where general VAWA requirements and policies pertaining to notification, documentation, and confidentiality are also located.

Notification

VAWA requires HRAs to provide applicants who are denied assistance with a VAWA Notice of Occupancy Rights (form HUD-5380) and a domestic violence certification form (HUD-5382) at the time the applicant is denied.

HRA Policy

The HRA acknowledges that a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking may have an unfavorable history (e.g., a poor credit history, poor rental history, a record of previous damage to an apartment, a prior arrest record) due to adverse factors that would warrant denial under the HRA's policies.

While the HRA is not required to identify whether adverse factors that resulted in the applicant's denial are a result of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the applicant may inform the HRA that their status as a victim is directly related to the grounds for the denial. The HRA will request that the applicant provide enough information to the HRA to allow the HRA to make an objectively reasonable determination, based on all circumstances, whether the adverse factor is a direct result of their status as a victim.

The HRA will include in its notice of denial information about the protection against denial provided by VAWA in accordance with section 16-VII.C of this ACOP, a notice of VAWA rights, and a copy of the form HUD-5382. The HRA will request in writing that an applicant wishing to claim this protection notify the HRA within 14 business days.

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Documentation

Victim Documentation [24 CFR 5.2007]

HRA Policy

If an applicant claims the protection against denial of admission that VAWA provides to victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the HRA will request in writing that the applicant provide documentation supporting the claim in accordance with section 16-VII.D of this ACOP.

Perpetrator Documentation

HRA Policy

If the perpetrator of the abuse is a member of the applicant family, the applicant must provide additional documentation consisting of one of the following:

A signed statement (1) requesting that the perpetrator be removed from the application and (2) certifying that the perpetrator will not be permitted to visit or to stay as a guest in the public housing unit

Documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to their belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

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3-III.H. NOTICE OF ELIGIBILITY OR DENIAL

The HRA will notify an applicant family of its final determination of eligibility in accordance with the policies in Section 4-III.E.

If a HRA uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before the HRA can move to deny the application. In addition, a copy of the record must be provided to the subject of the record [24 CFR 5.903(f) and 5.905(d)].

HRA Policy

If, based on a criminal record or sex offender registration information an applicant family appears to be ineligible, the HRA will notify the family in writing of the proposed denial and provide a copy of the record to the applicant and to the subject of the record. The family will be given 10 business days to dispute the accuracy and relevance of the information. If the family does not contact the HRA to dispute the information within that 10 day period, the HRA will proceed with issuing the notice of denial of admission. A family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the informal hearing process.

Notice requirements related to denying admission to noncitizens are contained in Section 3-II.B.

Notice policies related to denying admission to applicants who may be victims of domestic violence, dating violence, sexual assault, stalking or human trafficking are contained in Section 3-III.F.

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EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

Person with Disabilities [24 CFR 5.403]

The term *person with disabilities* means a person who has any of the following types of conditions.

- Has a disability, as defined in 42 U.S.C. Section 423(d)(1)(A), which reads:

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

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

- Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C.15002(8)], which defines developmental disability in functional terms as follows:

  (A) IN GENERAL – The term *developmental disability* means a severe, chronic disability of an individual that-

  (i) is attributable to a mental or physical impairment or combination of mental and physical impairments;

  (ii) is manifested before the individual attains age 22;

  (iii) is likely to continue indefinitely;

  (iv) results in substantial functional limitations in 3 or more of the following areas of major life activity: (I) self-care, (II) receptive and expressive language, (III) learning, (IV) mobility, (V) self-direction, (VI) capacity for independent living, (VII) economic self-sufficiency; and

  (v) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

  (B) INFANTS AND YOUNG CHILDREN – An individual from birth to age 9, inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting 3 or more of the criteria described in clauses (i) through (v) of subparagraph (A) if the individual, without services and supports, has a high probability of meeting those criteria later in life.

- Has a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration; substantially impedes 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.

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People with the acquired immunodeficiency syndrome (AIDS) or any conditions arising from the etiologic agent for AIDS are not excluded from this definition.

A person whose disability is based solely on any drug or alcohol dependence does not qualify as a person with disabilities for the purposes of this program.

For purposes of reasonable accommodation and program accessibility for persons with disabilities, the term person with disabilities refers to an individual with handicaps.

Individual with Handicaps [24 CFR 8.3]

Individual with handicaps means any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment. The term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the individual from participating in the program or activity in question, or whose participation, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others. As used in this definition, the phrase:

(1) Physical or mental impairment includes:

   (a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine

   (b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

(2) Major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(3) Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) Is regarded as having an impairment means:

   (a) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation

   (b) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment

   (c) Has none of the impairments defined in paragraph (a) of this section but is treated by a recipient as having such an impairment

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Chapter 4

APPLICATIONS, WAITING LIST AND TENANT SELECTION

INTRODUCTION

When a family wishes to reside in public housing, the family must submit an application that provides the HRA with the information needed to determine the family's eligibility. HUD requires the HRA to place all eligible families that apply for public housing on a waiting list. When a unit becomes available, the HRA must select families from the waiting list in accordance with HUD requirements and HRA policies as stated in its Admissions and Continued Occupancy Policy (ACOP) and its annual plan.

The HRA is required to adopt a clear approach to accepting applications, placing families on the waiting list, and selecting families from the waiting list, and must follow this approach consistently. The actual order in which families are selected from the waiting list can be affected if a family has certain characteristics designated by HUD or the HRA to receive preferential treatment.

HUD regulations require that the HRA comply with all equal opportunity requirements and it must affirmatively further fair housing goals in the administration of the program [24 CFR 960.103, PH Occ GB p. 13]. Adherence to the selection policies described in this chapter ensures that the HRA will be in compliance with all relevant fair housing requirements, as described in Chapter 2.

This chapter describes HUD and HRA policies for accepting applications, managing the waiting list and selecting families from the waiting list. The HRAs policies for assigning unit size and making unit offers are contained in Chapter 5. Together, Chapters 4 and 5 of the ACOP comprise the HRA's Tenant Selection and Assignment Plan (TSAP).

The policies outlined in this chapter are organized into three sections, as follows:

Part I: The Application Process. This part provides an overview of the application process, and discusses how applicants can obtain and submit applications. It also specifies how the HRA will handle the applications it receives.

Part II: Managing the Waiting List. This part presents the policies that govern how the HRA's waiting list is structured, when it is opened and closed, and how the public is notified of the opportunity to apply for public housing. It also discusses the process the HRA will use to keep the waiting list current.

Part III: Tenant Selection. This part describes the policies that guide the HRA in selecting families from the waiting list as units become available. It also specifies how in-person interviews will be used to ensure that the HRA has the information needed to make a final eligibility determination.

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PART I: THE APPLICATION PROCESS

4-I.A. OVERVIEW

This part describes the policies that guide the HRA's efforts to distribute and accept applications, and to make preliminary determinations of applicant family eligibility that affect placement of the family on the waiting list. This part also describes the HRA's obligation to ensure the accessibility of the application process.

4-I.B. APPLYING FOR ASSISTANCE

Any family that wishes to reside in public housing must apply for admission to the program [24 CFR 1.4(b)(2)(ii), 24 CFR 960.202(a)(2)(iv), and PH Occ GB, p. 68]. HUD permits the HRA to determine the format and content of its applications, as well how such applications will be made available to interested families and how applications will be accepted by the HRA. However, the HRA must include Form HUD-92006, Supplement to Application for Federally Assisted Housing, as part of the HRA's application [Notice PIH 2009-36].

HRA Policy

Depending upon the length of time between the date of application and the availability of housing, the HRA may use a one- or two-step application process.

A one-step process will be used when it is expected that a family will be selected from the waiting list within 60 days of the date of application. At application, the family must provide all of the information necessary to establish family eligibility and the amount of rent the family will pay.

A two-step process will be used when it is expected that a family will not be selected from the waiting list for at least 60 days from the date of application. Under the two-step application process, the HRA initially will require families to provide only the information needed to make an initial assessment of the family's eligibility, and to determine the family's placement on the waiting list. The family will be required to provide all of the information necessary to establish family eligibility and the amount of rent the family will pay when selected from the waiting list.

Families may obtain application forms from the HRA's website or from the HRA's office during normal business hours. Online applications are only accepted through the HRA's housing portal: housing.southstpaul.org. New applicants must sign into the portal by selecting "Applicant Login" and creating a new account; applications can also be viewed or updated through this portal. Families may also request – by telephone or by mail – an application form be sent to the family by first class mail or email. Contact information for the HRA and public housing properties is listed below.

Completed applications must be returned to the HRA by mail, electronically via email, by fax, or submitted in person during normal business hours.

The HRA will also offer the option to schedule an appointment or drop off applications during early morning, evening, or weekend hours to accommodate applicants who may be unable to appear during regular business hours due to work obligations, inability to obtain childcare or transportation, or other hardship reasons.

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Applications must be filled out completely in order to be accepted by the HRA for processing. If an application is incomplete, the HRA will notify the family of the additional information required.

The HRA and property contact information for requesting applications, checking on applications, and all questions regarding applications are listed below:

South St. Paul Housing & Redevelopment Agency
125 Third Ave N
South St. Paul, MN 55075
Phone: (651)554-3270
Fax: (651)554-3271

John Carroll Apartments
300 Grand Ave W
South St. Paul, MN 55075
Phone: (651)288-8163
Fax: (651)330-2858

Nan McKay Apartments
200 Marie Ave
South St. Paul, MN 55075
Phone: (651)288-8159
Fax: (651)340-4930

Website for Online Applications
housing.southstpaul.org

City of South St. Paul Website:
www.southstpaul.org

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4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

The HRA must take a variety of steps to ensure that the application process is accessible to those people who might have difficulty complying with the standard HRA application process.

Disabled Populations [24 CFR 8; PH Occ GB, p. 68]

The HRA must provide reasonable accommodation as needed for persons with disabilities to make the application process fully accessible. The facility where applications are accepted and the application process must be fully accessible, or the HRA must provide an alternate approach that provides equal access to the program. Chapter 2 provides a full discussion of the HRA's policies related to providing reasonable accommodations for people with disabilities.

Limited English Proficiency

HRAs are required to take reasonable steps to ensure meaningful access to their programs and activities by persons with limited English proficiency [24 CFR 1]. Chapter 2 provides a full discussion on the HRA's policies related to ensuring access to people with limited English proficiency (LEP).

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4-I.D. PLACEMENT ON THE WAITING LIST

The HRA must review each completed application received and make a preliminary assessment of the family's eligibility. Applicants for whom the waiting list is open must be placed on the waiting list unless the HRA determines the family to be ineligible. Where the family is determined to be ineligible, the HRA must notify the family in writing [24 CFR 960.208(a); PH Occ GB, p. 41].

No applicant has a right or entitlement to be listed on the waiting list, or to any particular position on the waiting list.

Ineligible for Placement on the Waiting List

HRA Policy

If the HRA determines from the information provided that a family is ineligible, the family will not be placed on the waiting list. When a family is determined to be ineligible, the HRA will send written notification of the ineligibility determination within 10 business days of receipt of the completed application. The notice will specify the reasons for ineligibility and will inform the family of its right to request an informal hearing and explain the process for doing so (see Chapter 14).

Eligible for Placement on the Waiting List

HRA Policy

The HRA will send written notification of the preliminary eligibility determination within 10 business days of receiving a completed application. If applicable, the notice will also indicate the waiting list preference(s) for which the family appears to qualify.

Applicants will be placed on the waiting list according to HRA preference(s) and the date and time their complete application is received by the HRA.

The HRA will assign families on the waiting list according to the bedroom size for which a family qualifies as established in its occupancy standards (see Chapter 5). Families may request to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines (as long as the unit is not overcrowded according to HRA standards and local codes). However, in these cases, the family must agree not to request a transfer for two years after admission, unless they have a change in family size or composition.

Placement on the waiting list does not indicate that the family is, in fact, eligible for admission. When the family is selected from the waiting list, the HRA will verify any preference(s) claimed and determine eligibility and suitability for admission to the program.

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PART II: MANAGING THE WAITING LIST

4-II.A. OVERVIEW

The HRA must have policies regarding the type of waiting list it will utilize as well as how the waiting list will be organized and managed. This includes policies on notifying the public on the opening and closing of the waiting list to new applicants, updating family information, purging the list of families that are no longer interested in or eligible for public housing, and conducting outreach to ensure a sufficient number of applicants.

In addition, HUD imposes requirements on how the HRA may structure its waiting list and how families must be treated if they apply for public housing at an HRA that administers more than one assisted housing program.

4-II.B. ORGANIZATION OF THE WAITING LIST

The HRA's public housing waiting list must be organized in such a manner to allow the HRA to accurately identify and select families in the proper order, according to the admissions policies described in this ACOP.

HRA Policy

The waiting list will contain the following information for each applicant listed:

Name and social security number of head of household

Unit size required (number of family members)

Amount and source of annual income

Accessibility requirement, if any

Date and time of application or application number

Household type (family, elderly, disabled)

Admission preference, if any

Race and ethnicity of the head of household

The specific site(s) selected (only if HRA offers site-based waiting lists)

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The HRA may adopt one community-wide waiting list or site-based waiting lists. The HRA must obtain approval from HUD through submission of its Annual Plan before it may offer site-based waiting lists. Site-based waiting lists allow families to select the development where they wish to reside and must be consistent with all applicable civil rights and fair housing laws and regulations [24 CFR 903.7(b)(2)].

HRA Policy

The HRA will maintain one single community-wide waiting list for its developments. Within the list, the HRA will designate subparts to easily identify who should be offered the next available unit (i.e. mixed populations, general occupancy, unit size, and accessible units).

The HRA will not adopt site-based waiting lists.

HUD requires that public housing applicants must be offered the opportunity to be placed on the waiting list for any tenant-based or project-based voucher or moderate rehabilitation program that the HRA operates if 1) the other programs' waiting lists are open, and 2) the family is qualified for the other programs [24 CFR 982.205(a)(2)(i)].

HUD permits, but does not require, that HRAs maintain a single merged waiting list for their public housing, Section 8, and other subsidized housing programs [24 CFR 982.205(a)(1)].

HRA Policy

The HRA will not merge the public housing waiting list with the waiting list for any other program the HRA operates.

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4-II.C. OPENING AND CLOSING THE WAITING LIST

Closing the Waiting List

The HRA is permitted to close the waiting list, in whole or in part, if it has an adequate pool of families to fully lease units in all of its developments. The HRA may close the waiting list completely, or restrict intake by preference, type of project, or by size and type of dwelling unit. [PH Occ GB, p. 31].

HRA Policy

The HRA will close the waiting list when the estimated waiting period for housing applicants on the list reaches 24 months for the most current applicants. Where the HRA has particular preferences or other criteria that require a specific category of family, the HRA may elect to continue to accept applications from these applicants while closing the waiting list to others.

Reopening the Waiting List

If the waiting list has been closed, it may be reopened at any time. The HRA should publish a notice announcing the opening of the waiting list in local newspapers of general circulation, minority media, and other suitable media outlets. Such notice must comply with HUD fair housing requirements. The HRA should specify who may apply, and where and when applications will be received.

HRA Policy

The HRA will announce the reopening of the waiting list at least 10 business days prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice.

The notice will inform applicants of the date, time, method, and place applications can be obtained and submitted, how blank applications may be obtained (e.g., from what addresses, community sites, and websites), all methods by which applications will be accepted (e.g., in person, by phone, by fax, by email), a point of contact who can answer questions, any limitations on who may apply, and any other information the applicant may need to successfully submit the application. The HRA will describe its prioritization system or whether it uses a lottery and will clearly state that this system will be used to place applicants on the waiting list.

To ensure that public notices broadly reach potential applicants in all communities throughout the housing market area, the HRA will distribute public notices to local community-based organizations, such as social service agencies and religious institutions; distribute the notice online through the HRA's website or social media platforms and other online platforms for local housing news; and make use of any local newspapers of general circulation, minority media, and other suitable means.

The HRA will give public notice by publishing the relevant information using the following media outlets:

St. Paul Pioneer Press; St. Paul & South St. Paul Voice; City of South St. Paul Facebook Page; City of South St. Paul Website: www.southstpaul.org.

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4-II.D. FAMILY OUTREACH [24 CFR 903.2(d); 24 CFR 903.7(a) and (b)]

The HRA should conduct outreach as necessary to ensure that the HRA has a sufficient number of applicants on the waiting list to fill anticipated vacancies and to assure that the HRA is affirmatively furthering fair housing and complying with the Fair Housing Act.

Because HUD requires the HRA to admit a specified percentage of extremely low-income families, the HRA may need to conduct special outreach to ensure that an adequate number of such families apply for public housing.

HRA outreach efforts must comply with fair housing requirements. This includes:

- Analyzing the housing market area and the populations currently being served to identify underserved populations
- Ensuring that outreach efforts are targeted to media outlets that reach eligible populations that are underrepresented in the program
- Avoiding outreach efforts that prefer or exclude people who are members of a protected class

HRA outreach efforts must be designed to inform qualified families about the availability of units under the program. These efforts may include, as needed, any of the following activities:

- Submitting press releases to local newspapers, including minority newspapers
- Developing informational materials and flyers to distribute to other agencies
- Providing application forms to other public and private agencies that serve the low income population
- Developing partnerships with other organizations that serve similar populations, including agencies that provide services for persons with disabilities

HRA Policy

The HRA will monitor the characteristics of the population being served and the characteristics of the population as a whole in the HRA's jurisdiction. Targeted outreach efforts will be undertaken if a comparison suggests that certain populations are being underserved.

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4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

HRA Policy

While the family is on the waiting list, the family must inform the HRA, within 10 business days, of changes in family size or composition, preference status, or contact information, including current residence, mailing address, and phone number. The changes must be submitted in writing.

Changes in an applicant's circumstances while on the waiting list may affect the family's qualification for a particular bedroom size or entitlement to a preference. When an applicant reports a change that affects their placement on the waiting list, the waiting list will be updated accordingly.

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4-II.F. UPDATING THE WAITING LIST

HUD requires the HRA to establish policies that describe the circumstances under which applicants will be removed from the waiting list [24 CFR 960.202(a)(2)(iv)].

Purging the Waiting List

The decision to remove an applicant family that includes a person with disabilities from the waiting list is subject to reasonable accommodation. If the applicant did not respond to the HRA's request for information or updates because of the family member's disability, the HRA must, upon the family's request, reinstate the applicant family to their former position on the waiting list as a reasonable accommodation [24 CFR 8.4(a), 24 CFR 100.204(a), and PH Occ GB, p. 39 and 40]. See Chapter 2 for further information regarding reasonable accommodations.

HRA Policy

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

To update the waiting list, the HRA will send an update request via first class mail to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program.

As part of the initial pre-application or application, the HRA will ask the family for their preferred methods of communication, which may include mail, phone, text message, email, or contact through a representative or service provider.

This update request will be sent to the last address that the HRA has on record for the family as well as any additional contact methods identified by the family. The update request will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list.

The family's response must be in writing and may be delivered in person, by mail, by email, or by fax. Responses should be postmarked or received by the HRA not later than 15 business days from the date of the HRA letter.

If the family fails to respond within 15 business days, the family will be sent a second notice giving them 10 business days to respond in writing. If they fail to respond to the second notice within the required time frame, the family will be removed from the waiting list without further notice.

If the notice is returned by the post office with no forwarding address, the applicant will be removed from the waiting list without further notice.

If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. The family will have 15 business days to respond from the date the letter was re-sent. If the family fails to respond within this time frame, the family will be removed from the waiting list without further notice.

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When a family is removed from the waiting list during the update process for failure to respond, the HRA will contact an unresponsive applicant through all means available, which may include via mail, phone, email, and text message. The HRA will give that family a reasonable period of time to respond with their interest so as to not inadvertently remove an applicant who remains interested but may have moved, changed their contact information, or otherwise are difficult to reach. No informal hearing will be offered in such cases. Such failures to act on the part of the applicant prevent the HRA from making an eligibility determination; therefore no informal hearing is required.

If a family is removed from the waiting list for failure to respond, the HRA may reinstate the family if the lack of response was due to HRA error, to circumstances beyond the family's control, as a result of a family member's disability, or as a direct result of status as a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, including an adverse factor resulting from such abuse.

Removal from the Waiting List

HRA Policy

The HRA will remove an applicant from the waiting list upon request by the applicant family. In such cases no informal hearing is required.

If the HRA determines that the family is not eligible for admission (see Chapter 3) at any time while the family is on the waiting list the family will be removed from the waiting list.

If a family is removed from the waiting list because the HRA has determined the family is not eligible for admission, a notice will be sent to the family's address of record as well as to any alternate address provided on the initial application. The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal hearing regarding the HRA's decision (see Chapter 14) [24 CFR 960.208(a)].

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PART III: TENANT SELECTION

4-III.A. OVERVIEW

The HRA must establish tenant selection policies for families being admitted to public housing [24 CFR 960.201(a)]. The HRA must not require any specific income or racial quotas for any developments [24 CFR 903.2(d)]. The HRA must not assign persons to a particular section of a community or to a development or building based on race, color, religion, sex, disability, familial status or national origin for purposes of segregating populations [24 CFR 1.4(b)(1)(iii) and 24 CFR 903.2(d)(1)].

The order in which families will be selected from the waiting list depends on the selection method chosen by the HRA and is impacted in part by any selection preferences that the family qualifies for. The availability of units also may affect the order in which families are selected from the waiting list.

The HRA must maintain a clear record of all information required to verify that the family is selected from the waiting list according to the HRA's selection policies [24 CFR 960.206(e)(2)]. The HRA's policies must be posted any place where the HRA receives applications. The HRA must provide a copy of its tenant selection policies upon request to any applicant or tenant. The HRA may charge the family for providing a copy of its tenant selection policies [24 CFR 960.202(c)(2)].

HRA Policy

When an applicant or resident family requests a copy of the HRA's tenant selection policies, the HRA will provide copies to them free of charge.

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4-III.B. SELECTION METHOD

HRAs must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that the HRA will use.

Local Preferences [24 CFR 960.206]

HRAs are permitted to establish local preferences and to give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits the HRA to establish other local preferences, at its discretion. Any local preferences established must be consistent with the HRA plan and the consolidated plan and must be based on local housing needs and priorities that can be documented by generally accepted data sources [24 CFR 960.206(a)].

HRA Policy

Local preferences will be aggregated using a system in which each preference will receive an allocation of points. The more preference points an applicant has, the higher the applicant's place on the waiting list.

The HRA will use the following local preferences:

HIGHRISE UNIT PREFERENCES

The HRA will select families based on the following preferences within each bedroom size category:

A. **Elderly** – An *elderly person* is a person who is at least 62 years of age. This preference is given to applicant households whose head, spouse, co-head, or sole member is an elderly person. (100 points)

B. **Near-Elderly** – A *near-elderly person* is a person who is 50-61 years of age. This preference is given to applicant households whose head, spouse, co-head, or sole member is a near-elderly person. (50 points)

C. **Disability** – This preference is extended to disabled persons or households with a disabled member as defined in this ACOP. (20 points)

D. **Residency** – This preference is given to individuals or families who live, work, or have been hired to work in the jurisdiction of the HRA. (10 points)

E. **Veteran** – This preference is available to current members of the U.S. Armed Forces, veterans, or surviving spouses of veterans. (5 points)

F. **Single Person or Household** – A *single person or single household* is an individual or household in which all occupants are non-elderly, non-disabled, non-handicapped, & non-near elderly. Single or single-family household applicants will only be selected if there is a need to fill vacant units and no other eligible applicants remain. (1 point)

Applicants qualifying for multiple preferences will thus be assigned a combined total of points. Among applicants with the same preference points, date and time of application will be used to determine placement on the waiting list. The HRA will verify all preferences during the application process.

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Income Targeting Requirement [24 CFR 960.202(b)]

HUD requires that extremely low-income (ELI) families make up at least 40 percent of the families admitted to public housing during the HRA's fiscal year. ELI families are those with annual incomes at or below the federal poverty level or 30 percent of the area median income, whichever number is higher [*Federal Register* notice 6/25/14]. To ensure this requirement is met, the HRA may skip non-ELI families on the waiting list in order to select an ELI family.

If an HRA also operates a housing choice voucher (HCV) program, admissions of extremely low-income families to the HRA's HCV program during an HRA fiscal year that exceed the 75 percent minimum target requirement for the voucher program, shall be credited against the HRA's basic targeting requirement in the public housing program for the same fiscal year. However, under these circumstances the fiscal year credit to the public housing program must not exceed the lower of: (1) ten percent of public housing waiting list admissions during the HRA fiscal year; (2) ten percent of waiting list admissions to the HRA's housing choice voucher program during the HRA fiscal year; or (3) the number of qualifying low-income families who commence occupancy during the fiscal year of HRA public housing units located in census tracts with a poverty rate of 30 percent or more. For this purpose, qualifying low-income family means a low-income family other than an extremely low-income family.

HRA Policy

The HRA will monitor progress in meeting the ELI requirement throughout the fiscal year. ELI families will be selected ahead of other eligible families on an as-needed basis to ensure that the income targeting requirement is met.

Mixed Population Developments [24 CFR 960.407]

A mixed population development is a public housing development or portion of a development that was reserved for elderly families and disabled families at its inception (and has retained that character) or the HRA at some point after its inception obtained HUD approval to give preference in tenant selection for all units in the development (or portion of a development) to elderly and disabled families [24 CFR 960.102]. Elderly family means a family whose head, spouse, cohead, or sole member is a person who is at least 62 years of age. Disabled family means a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR 5.403]. The HRA must give elderly and disabled families equal preference in selecting these families for admission to mixed population developments. The HRA may not establish a limit on the number of elderly or disabled families that may occupy a mixed population development. In selecting elderly and disabled families to fill these units, the HRA must first offer the units that have accessibility features for families that include a person with a disability and require the accessibility features of such units. The HRA may not discriminate against elderly or disabled families that include children (Fair Housing Amendments Act of 1988).

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Units Designated for Elderly or Disabled Families [24 CFR 945]

The HRA may designate projects or portions of a public housing project specifically for elderly or disabled families. The HRA must have a HUD-approved allocation plan before the designation may take place.

Among the designated developments, the HRA must also apply any preferences that it has established. If there are not enough elderly families to occupy the units in a designated elderly development, the HRA may allow near-elderly families to occupy the units [24 CFR 945.303(c)(1)]. Near-elderly family means a family whose head, spouse, or cohead is at least 50 years old, but is less than 62 [24 CFR 5.403].

If there are an insufficient number of elderly families and near-elderly families for the units in a development designated for elderly families, the HRA must make available to all other families any unit that is ready for re-rental and has been vacant for more than 60 consecutive days [24 CFR 945.303(c)(2)].

The decision of any disabled family or elderly family not to occupy or accept occupancy in designated housing shall not have an adverse affect on their admission or continued occupancy in public housing or their position on or placement on the waiting list. However, this protection does not apply to any family who refuses to occupy or accept occupancy in designated housing because of the race, color, religion, sex, disability, familial status, or national origin of the occupants of the designated housing or the surrounding area [24 CFR 945.303(d)(1) and (2)].

This protection does apply to an elderly family or disabled family that declines to accept occupancy, respectively, in a designated project for elderly families or for disabled families, and requests occupancy in a general occupancy project or in a mixed population project [24 CFR 945.303(d)(3)].

HRA Policy

The HRA has designated housing. The HRA's developments with designated housing are as follows:

John Carroll – 300 Grand Ave W, South St. Paul, MN 55075 – Elderly Designation

Nan McKay – 200 Marie Ave, South St. Paul, MN 55075 – Elderly Designation

When there are insufficient elderly families on the waiting list who wish to reside in a designated elderly development, near-elderly families will receive a preference over other families for designated elderly units.

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Deconcentration of Poverty and Income-Mixing [24 CFR 903.1 and 903.2]

The HRA's admission policy must be designed to provide for deconcentration of poverty and income-mixing by bringing higher income tenants into lower income projects and lower income tenants into higher income projects. A statement of the HRA's deconcentration policies must be in included in its annual plan [24 CFR 903.7(b)].

The HRA's deconcentration policy must comply with its obligation to meet the income targeting requirement [24 CFR 903.2(c)(5)].

Developments subject to the deconcentration requirement are referred to as 'covered developments' and include general occupancy (family) public housing developments. The following developments are not subject to deconcentration and income mixing requirements: developments operated by an HRA with fewer than 100 public housing units; mixed population or developments designated specifically for elderly or disabled families; developments operated by an HRA with only one general occupancy development; developments approved for demolition or for conversion to tenant-based public housing; and developments approved for a mixed-finance plan using HOPE VI or public housing funds [24 CFR 903.2(b)].

Order of Selection [24 CFR 960.206(e)]

The HRA system of preferences may select families either according to the date and time of application or by a random selection process.

HRA Policy

Families will be selected from the waiting list based on preference points. Among applicants with the same preference points, families will be selected on a first-come, first-served basis according to the date and time their complete application is received by the HRA.

When selecting applicants from the waiting list, the HRA will match the characteristics of the available unit (unit size, accessibility features, unit type) to the applicants on the waiting lists. The HRA will offer the unit to the highest ranking applicant who qualifies for that unit size or type, or that requires the accessibility features.

By matching unit and family characteristics, it is possible that families who are lower on the waiting list may receive an offer of housing ahead of families with an earlier date and time of application or higher preference status.

Factors such as deconcentration or income mixing and income targeting will also be considered in accordance with HUD requirements and HRA policy.

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4-III.C. NOTIFICATION OF SELECTION

When the family has been selected from the waiting list, the HRA must notify the family [24 CFR 960.208].

HRA Policy

The HRA will notify the family by first class mail when it is selected from the waiting list.

The notice will inform the family of the following:

Date, time, and location of the scheduled application interview, including any procedures for rescheduling the interview

Who is required to attend the interview

Documents that must be provided at the interview to document the legal identity of household members, including information about what constitutes acceptable documentation

Documents that must be provided at the interview to document eligibility for a preference, if applicable

Other documents and information that should be brought to the interview

If a notification letter is returned to the HRA with no forwarding address, the family will be removed from the waiting list without further notice. Such failure to act on the part of the applicant prevents the HRA from making an eligibility determination; therefore no informal hearing will be offered.

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4-III.D. THE APPLICATION INTERVIEW

HUD recommends that the HRA obtain the information and documentation needed to make an eligibility determination through a private interview. Being invited to attend an interview does not constitute admission to the program.

Assistance cannot be provided to the family until all SSN documentation requirements are met. However, if the HRA determines that an applicant family is otherwise eligible to participate in the program, the family may retain its place on the waiting list for a period of time determined by the HRA [Notice PIH 2018-24].

Reasonable accommodation must be made for persons with disabilities who are unable to attend an interview due to their disability [24 CFR 8.4(a) and 24 CFR 100.204(a)].

HRA Policy

Families selected from the waiting list are required to participate in an eligibility interview.

The head of household and the spouse/cohead will be strongly encouraged to attend the interview together. However, either the head of household or the spouse/cohead may attend the interview on behalf of the family. Verification of information pertaining to adult members of the household not present at the interview will not begin until signed release forms are returned to the HRA.

The interview will be conducted only if the head of household or spouse/cohead provides appropriate documentation of legal identity (Chapter 7 provides a discussion of proper documentation of legal identity). If the family representative does not provide the required documentation, the appointment may be rescheduled when the proper documents have been obtained.

Pending disclosure and documentation of social security numbers, the HRA will allow the family to retain its place on the waiting list for 30 days. If not all household members have disclosed their SSNs at the next time a unit becomes available, the HRA will offer a unit to the next eligible applicant family on the waiting list.

If the family is claiming a waiting list preference, the family must provide documentation to verify their eligibility for a preference (see Chapter 7). If the family is verified as eligible for the preference, the HRA will proceed with the interview. If the HRA determines the family is not eligible for the preference, the interview will not proceed and the family will be placed back on the waiting list according to the date and time of their application.

The family must provide the information necessary to establish the family's eligibility, including suitability, and to determine the appropriate amount of rent the family will pay. The family must also complete required forms, provide required signatures, and submit required documentation. If any materials are missing, the HRA will provide the family with a written list of items that must be submitted.

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Any required documents or information that the family is unable to provide at the interview must be provided within 10 business days of the interview (Chapter 7 provides details about longer submission deadlines for particular items, including documentation of Social Security numbers and eligible noncitizen status). If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial (see Chapter 3).

An advocate, interpreter, or other assistant may assist the family with the application and the interview process.

Interviews will be conducted in English. For limited English proficient (LEP) applicants, the HRA will provide translation services in accordance with the HRA's LEP plan.

If the family is unable to attend a scheduled interview, the family should contact the HRA in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview, the HRA will send another notification letter with a new interview appointment time. Applicants who fail to attend two scheduled interviews without HRA approval will have their applications made inactive based on the family's failure to supply information needed to determine eligibility. The second appointment letter will state that failure to appear for the appointment without a request to reschedule will be interpreted to mean that the family is no longer interested and their application will be made inactive. Such failure to act on the part of the applicant prevents the HRA from making an eligibility determination, therefore the HRA will not offer an informal hearing.

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4-III.E. FINAL ELIGIBILITY DETERMINATION [24 CFR 960.208]

The HRA must verify all information provided by the family (see Chapter 7). Based on verified information related to the eligibility requirements, including HRA suitability standards, the HRA must make a final determination of eligibility (see Chapter 3).

When a determination is made that a family is eligible and satisfies all requirements for admission, including tenant selection criteria, the applicant must be notified of the approximate date of occupancy insofar as that date can be reasonably determined [24 CFR 960.208(b)].

HRA Policy

The HRA will notify a family in writing of their eligibility within 10 business days of the determination and will provide the approximate date of occupancy insofar as that date can be reasonably determined.

The HRA will expedite the administrative process for determining eligibility to the extent possible for applicants who are admitted to the public housing program as a result of an emergency transfer from another HRA program.

The HRA must promptly notify any family determined to be ineligible for admission of the basis for such determination, and must provide the applicant upon request, within a reasonable time after the determination is made, with an opportunity for an informal hearing on such determination [24 CFR 960.208(a)].

HRA Policy

If the HRA determines that the family is ineligible, the HRA will send written notification of the ineligibility determination within 10 business days of the determination. The notice will specify the reasons for ineligibility and will inform the family of its right to request an informal hearing (see Chapter 14).

If the HRA uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before the HRA can move to deny the application. See Section 3-III.G for the HRA's policy regarding such circumstances.

The HRA must provide the family a notice of VAWA rights (form HUD-5380) as well as the HUD VAWA self-certification form (form HUD-5382) in accordance with the Violence against Women Act, and as outlined in 16-VII.C, at the time the applicant is provided assistance or at the time the applicant is denied assistance. This notice must be provided in both of the following instances: (1) when a family actually begins receiving assistance (lease execution); or (2) when a family is notified of its ineligibility.

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- **Elderly** – An *elderly person* is a person who is at least 62 years of age. This preference is given to applicant households whose head, spouse, co-head, or sole member is an elderly person. (100 points)
- **Near-Elderly** – A *near-elderly person* is a person who is 50-61 years of age. This preference is given to applicant households whose head, spouse, co-head, or sole member is a near-elderly person. (50 points)
- **Disability** – This preference is extended to disabled persons or households with a disabled member as defined in this ACOP. (20 points)
- **Residency** – This preference is given to individuals or families who live, work, or have been hired to work in the jurisdiction of the HRA. (10 points)
- **Veteran** – This preference is available to current members of the U.S. Armed Forces, veterans, or surviving spouses of veterans. (5 points)
- **Single Person or Household** – A *single person or single household* is an individual or household in which all occupants are non-elderly, non-disabled, non-handicapped, & non-near elderly. Single or single-family household applicants will only be selected if there is a need to fill vacant units and no other eligible applicants remain. (1 point)

SYSTEMS OF PREFERENCES

Local preferences will be aggregated using the following system:

Each preference will receive an allocation of points. The more preference points an applicant has, the higher the applicant's place on the waiting list.

- **Elderly Preference – 100 Points**
- **Near-Elderly Preference – 50 Points**
- **Disability Preference – 20 Points**
- **Residency Preference – 10 Points**
- **Veterans Preference – 5 Points**
- **Single Person or Household Preference – 1 Point**

Among applicants who qualify for the same number of preference points, date and time of application will be used to determine placement on the waiting list.

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VERIFICATION OF WAITING LIST PREFERENCES

- **Elderly Preference:** This preference is given to applicant households whose head, spouse, co-head, or sole member is an elderly person.

In order to verify that an applicant is elderly, the HRA will require documentation of age from a state issued identification card, birth certificate, or other US government document.

- **Near-Elderly Preference:** This preference is given to applicant households whose head, spouse, co-head, or sole member is a near-elderly person.

In order to verify that an applicant is near-elderly, the HRA will require documentation of age from a state issued identification card, birth certificate, or other US government document.

- **Disability Preference**: This preference is extended to disabled persons or families with a disabled member as defined in this ACOP.

The HRA will require appropriate documentation from a knowledgeable professional. The HRA will not inquire as to the nature or extent of the disability.

An award letter or other proof of eligibility for Social Security Disability or Supplemental Security Income will be acceptable.

- **Residency Preference**: For families who live, work or have been hired to work in the jurisdiction of the HRA.

In order to verify that an applicant is a resident, the HRA will require a minimum of **two** of the following documents: rent receipts, leases, utility bills, employer or agency records, school records, drivers licenses, voters registration records, credit reports, statement from household with whom the family is residing.

For families who have been hired to work in the jurisdiction of the HRA, a statement from the employer will be required.

- **Veterans Preference**: This preference is available to current members of the U.S. Armed Forces, veterans, or surviving spouses of veterans.

The HRA will require U.S. government documents which indicate that the applicant qualifies under the above definition.

- **Single Person or Household:**

Single applicants who are elderly, near-elderly or disabled will be given a selection priority over all “single person or household” applicants regardless of preference status. "Single person or household” denotes a household in which all members of the household are not elderly, near-elderly, or disabled. Such applicants will be placed on the waiting list in accordance with any other preferences to which they are entitled, but they cannot be selected for tenancy before any elderly, near-elderly, or disabled family regardless of local preferences.

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Chapter 5

OCCUPANCY STANDARDS AND UNIT OFFERS

INTRODUCTION

The HRA must establish policies governing occupancy of dwelling units and offering dwelling units to qualified families.

This chapter contains policies for assigning unit size and making unit offers. The HRA's waiting list and selection policies are contained in Chapter 4. Together, Chapters 4 and 5 of the ACOP comprise the HRA's Tenant Selection and Assignment Plan (TSAP).

Policies in this chapter are organized in two parts.

> Part I: Occupancy Standards. This part contains the HRA's standards for determining the appropriate unit size for families of different sizes, compositions, and types.
>
> Part II: Unit Offers. This part contains the HRA's policies for making unit offers, and describes actions to be taken when unit offers are refused.

PART I: OCCUPANCY STANDARDS

5-I.A. OVERVIEW

Occupancy standards are established by the HRA to ensure that units are occupied by families of the appropriate size. This policy maintains the maximum usefulness of the units, while preserving them from underutilization or from excessive wear and tear due to overcrowding. Part I of this chapter explains the occupancy standards. These standards describe the methodology and factors the HRA will use to determine the size unit for which a family qualifies, and includes the identification of the minimum and maximum number of household members for each unit size. This part also identifies circumstances under which an exception to the occupancy standards may be approved.

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5-I.B. DETERMINING UNIT SIZE

In selecting a family to occupy a particular unit, the HRA may match characteristics of the family with the type of unit available, for example, number of bedrooms [24 CFR 960.206(c)].

HUD does not specify the number of persons who may live in public housing units of various sizes. HRAs are permitted to develop appropriate occupancy standards as long as the standards do not have the effect of discriminating against families with children [PH Occ GB, p. 62].

Although the HRA does determine the size of unit the family qualifies for under the occupancy standards, the HRA does not determine who shares a bedroom/sleeping room.

The HRA's occupancy standards for determining unit size must be applied in a manner consistent with fair housing requirements.

HRA Policy

The HRA will use the same occupancy standards for each of its developments.

The HRA's occupancy standards are as follows:

The HRA will assign one bedroom for each two persons within the household, except in the following circumstances:

Persons of different generations will not be required to share a bedroom, except:

A single pregnant woman with no other household members and a single parent with one child and no other household members will be assigned a one-bedroom unit. Assuming no other changes in family composition, after the child reaches the age of six years, the family will be eligible for a transfer to a 2-bedroom unit.

Otherwise, an unborn child will not be counted as a person in determining unit size.

Live-in aides will be allocated a separate bedroom. No additional bedrooms will be provided for the live-in aide's family.

Single person families will be allocated a zero or one bedroom.

Children related to a household member by birth, adoption, or court awarded custody will be considered when determining unit size.

Foster children will be considered when determining unit size. The family may add foster children to the household as long as it does not overcrowd the unit based on the HRA's occupancy standards.

Children away at school, but for whom the unit is considered the primary residence, and children temporarily placed outside the home, will be considered when determining unit size.

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Children in the process of being adopted will be considered when determining unit size.

Children who will live in the unit less than 50 percent of the time will not be considered when determining unit size.

The HRA will reference the following standards in determining the appropriate unit bedroom size for a family:

BEDROOM SIZE	MINIMUM NUMBER OF PERSONS	MAXIMUM NUMBER OF PERSONS
0	1	1
1	1	2
2	2	4

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5-I.C. EXCEPTIONS TO OCCUPANCY STANDARDS

Types of Exceptions

HRA Policy

The HRA will consider granting exceptions to the occupancy standards at the family's request if the HRA determines the exception is justified by the relationship, age, sex, health or disability of family members, or other personal circumstances.

For example, an exception may be granted if a larger bedroom size is needed for medical equipment due to its size and/or function, or as a reasonable accommodation for a person with disabilities. An exception may also be granted for a smaller bedroom size in cases where the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides (according to the chart in Section 5-I.B) and the family does not want to transfer to a larger size unit.

When evaluating exception requests the HRA will consider the size and configuration of the unit. In no case will the HRA grant an exception that is in violation of local housing or occupancy codes, regulations or laws.

Requests from applicants to be placed on the waiting list for a unit size smaller than designated by the occupancy standards will be approved as long as the unit is not overcrowded according to local code, and the family agrees not to request a transfer for a period of two years from the date of admission, unless they have a subsequent change in family size or composition.

To prevent vacancies, the HRA may provide an applicant family with a larger unit than the occupancy standards permit. However, in these cases the family must agree to move to a suitable, smaller unit when another family qualifies for the larger unit and there is an appropriate size unit available for the family to transfer to.

Processing of Exceptions

HRA Policy

All requests for exceptions to the occupancy standards must be submitted in writing.

In the case of a request for exception as a reasonable accommodation, the HRA will encourage the resident to make the request in writing using a reasonable accommodation request form. However, the HRA will consider the exception request any time the resident indicates that an accommodation is needed whether or not a formal written request is submitted.

Requests for a larger size unit must explain the need or justification for the larger size unit, and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source, unless the disability and the disability-related request for accommodation is readily apparent or otherwise known.

The HRA will notify the family of its decision within 10 business days of receiving the family's request.

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PART II: UNIT OFFERS

24 CFR 1.4(b)(2)(ii); 24 CFR 960.208

5-II.A. OVERVIEW

The HRA must assign eligible applicants to dwelling units in accordance with a plan that is consistent with civil rights and nondiscrimination laws.

In filling an actual or expected vacancy, the HRA must offer the dwelling unit to an applicant in the appropriate offer sequence. The HRA will offer the unit until it is accepted. This section describes the HRA's policies with regard to the number of unit offers that will be made to applicants selected from the waiting list. This section also describes the HRA's policies for offering units with accessibility features.

HRA Policy

The HRA will maintain a record of units offered, including location, date and circumstances of each offer, each acceptance or rejection, including the reason for the rejection.

5-II.B. NUMBER OF OFFERS

HRA Policy

The PHA has adopted a "one offer plan" for offering units to applicants. Under this plan the first qualified applicant in sequence on the waiting list will be made one offer of a unit of the appropriate size.

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5-II.C. TIME LIMIT FOR UNIT OFFER ACCEPTANCE OR REFUSAL

HRA Policy

Applicants must accept or refuse a unit offer within 3 business days of the date of the unit offer.

Offers made by telephone will be confirmed by letter.

5-II.D. REFUSALS OF UNIT OFFERS

Good Cause for Unit Refusal

An elderly or disabled family may decline an offer for designated housing. Such a refusal must not adversely affect the family's position on or placement on the public housing waiting list [24 CFR 945.303(d)].

HRA Policy

Applicants may refuse to accept a unit offer for "good cause." *Good cause* includes situations in which an applicant is willing to move but is unable to do so at the time of the unit offer, or the applicant demonstrates that acceptance of the offer would cause undue hardship not related to considerations of the applicant's race, color, national origin, etc. [PH Occ GB, p. 104]. Examples of good cause for refusal of a unit offer include, but are not limited to, the following:

The family demonstrates to the HRA's satisfaction that accepting the unit offer will require an adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities.

The family demonstrates to the HRA's satisfaction that accepting the offer will place a family member's life, health, or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders; other court orders; risk assessments related to witness protection from a law enforcement agency; or documentation of domestic violence, dating violence, sexual assault, stalking, or human trafficking in accordance with section 16-VII.D of this ACOP. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption.

A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final application) or live-in aide necessary to the care of the principal household member.

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The unit is inappropriate for the applicant's disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a 30-day notice to move.

The unit has lead-based paint and the family includes children under the age of six.

In the case of a unit refusal for good cause the applicant will not be removed from the waiting list as described later in this section. The applicant will remain at the top of the waiting list until the family receives an offer for which they do not have good cause to refuse.

The HRA will require documentation of good cause for unit refusals.

Unit Refusal without Good Cause

HRA Policy

When an applicant rejects the final unit offer without good cause, the HRA will remove the applicant's name from the waiting list and send notice to the family of such removal. The notice will inform the family of their right to request an informal hearing and the process for doing so (see Chapter 14).

The applicant may reapply for assistance if the waiting list is open. If the waiting list is not open, the applicant must wait to reapply until the HRA opens the waiting list.

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5-II.E. ACCESSIBLE UNITS [24 CFR 8.27]

HRAs must adopt suitable means to assure that information regarding the availability of accessible units reaches eligible individuals with disabilities, and take reasonable nondiscriminatory steps to maximize the utilization of such units by eligible individuals whose disability requires the accessibility features of a particular unit.

When an accessible unit becomes vacant, before offering such units to a non-disabled applicant the HRA must offer such units:

- First, to a current resident of another unit of the same development, or other public housing development under the HRA's control, who has a disability that requires the special features of the vacant unit and is occupying a unit not having such features, or if no such occupant exists, then
- Second, to an eligible qualified applicant on the waiting list having a disability that requires the special features of the vacant unit.

When offering an accessible unit to an applicant not having a disability requiring the accessibility features of the unit, the HRA may require the applicant to agree (and may incorporate this agreement in the lease) to move to a non-accessible unit when available.

HRA Policy

Families requiring an accessible unit may be over-housed in such a unit if there are no resident or applicant families of the appropriate size who also require the accessible features of the unit.

When there are no resident or applicant families requiring the accessible features of the unit, including families who would be over-housed, the HRA will offer the unit to a non-disabled applicant.

When offering an accessible unit to a non-disabled applicant, the HRA will require the applicant to agree to move to an available non-accessible unit within 30 days when either a current resident or an applicant needs the features of the unit and there is another unit available for the non-disabled family. This requirement will be a provision of the lease agreement.

5-II.F. DESIGNATED HOUSING

When applicable, the HRA's policies for offering units designated for elderly families only or for disabled families only are described in the HRA's Designated Housing Plan.

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Chapter 6

INCOME AND RENT DETERMINATIONS

[24 CFR Part 5, Subparts E and F; 24 CFR 960, Subpart C]

INTRODUCTION

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

Part I: Annual Income. HUD regulations specify the sources of income which are excluded from the family's annual income. These requirements and HRA policies for calculating annual income are found in Part I.

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

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

Part IV: Calculating Rent. This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining family rent payment. Also included here are flat rents and the family's choice of rent.

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PART I: ANNUAL INCOME

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

Annual income includes:

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

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

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

Annual income also includes all actual anticipated income from assets (provided the income is not otherwise excluded) even if the asset itself is excluded from net family assets [Notice PIH 2023-27]. 24 CFR 5.603(b)(1) describes HUD regulations for treating specific types of assets.

The full texts of those portions of the regulations are provided in exhibits at the end of this chapter as follows:

- Annual Income Full Definition (Exhibit 6-1)
- Treatment of Family Assets (Exhibit 6-2)
- The Effect of Welfare Benefit Reduction (Exhibit 6-3)

Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. Verification requirements for annual income are discussed in Chapter 7.

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6-I.B. HOUSEHOLD COMPOSITION AND INCOME

Overview

Income received by all family members must be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in family composition in accordance with HUD regulations and HRA policies in Chapter 9. The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.

Summary of Income Included and Excluded by Person	
Live-in aides	Income from all sources (both earned and unearned) is excluded [24 CFR 5.609(b)(8)].
Foster child or foster adult	Income from all sources (both earned and unearned) is excluded [24 CFR 5.609(b)(8)].
Head, spouse, or cohead Other adult family members	All sources of income not specifically excluded by the regulations are included [24 CFR 5.609(a)].
Minors	Earned income of children under 18 years of age is excluded [24 CFR 5.609(b)(3)]. All sources of unearned income, except those specifically excluded by the regulations, are included.
Full-time students 18 years of age or older (not head, spouse, or cohead)	Earned income in excess of the dependent deduction is excluded [24 CFR 5.609(b)(14)]. All sources of unearned income, except those specifically excluded by the regulations, are included.

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Temporarily Absent Family Members

The current regulations governing annual income do not specifically address temporarily absent family members. The regulations also do not define "temporarily" or "permanently" absent or specify a timeframe associated with a temporary versus a permanent absence.

HRA Policy

Unless specifically excluded by the regulations, the income of all family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit.

Generally, an individual who is or is expected to be absent from the assisted unit for 180 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally, an individual who is or is expected to be absent from the assisted unit for more than 180 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Students

HRA Policy

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to the HRA indicating that the student has established a separate household, or the family declares that the student has established a separate household.

Absences Due to Placement in Foster Care

Children temporarily absent from the home as a result of placement in foster care (as confirmed by the state child welfare agency) are considered members of the family [24 CFR 5.403].

HRA Policy

If a child has been placed in foster care, the HRA will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will continue to be counted as a family member.

Absent Head, Spouse, or Cohead

HRA Policy

An employed head, spouse, or cohead absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member.

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Family Members Confined for Medical Reasons

If a family member is confined to a nursing home or hospital on a permanent basis, HRAs may determine that that person is no longer a member of the assisted household, and the income of that person is not counted [New PH OCC GB, *Income Determinations,* p. 12].

HRA Policy

The HRA will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

When an individual who has been counted as a family member is determined permanently absent, the family is eligible for the medical expense deduction only if the remaining head, spouse, or cohead qualifies as an elderly person or a person with disabilities.

Joint Custody of Children

HRA Policy

Dependents that are subject to a joint custody arrangement will be considered a member of the family if they live with the applicant or participant family 50 percent or more of the time.

When more than one applicant or assisted family (regardless of program) are claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the HRA will make the determination based on available documents such as court orders, an IRS income tax return showing which family has claimed the child for income tax purposes, school records, or other credible documentation.

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Caretakers for a Child

HRA Policy

The approval of a caretaker is at the owner and HRA's discretion and subject to the owner and HRA's screening criteria. If neither a parent nor a designated guardian remains in a household receiving HCV assistance, the HRA will take the following actions.

If a responsible agency has determined that another adult is to be brought into the assisted unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.

If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases the HRA will extend the caretaker's status as an eligible visitor.

At any time that custody or guardianship legally has been awarded to a caretaker, the housing choice voucher will be transferred to the caretaker.

During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

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6-I.C. CALCULATING ANNUAL INCOME

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

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

At initial occupancy and for an interim reexamination of family income, the HRA is required to use anticipated income (current income) for the upcoming 12-month period following the new admission or interim reexamination effective date. Policies related to verifying income are found in Chapter 7.

HRA Policy

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

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

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

Known Changes in Income

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

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

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases the HRA will calculate annual income using current circumstances and then, should the change in income require the HRA to conduct an interim reexamination, conduct an interim reexamination in accordance with HRA policy in Chapter 9.

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

At annual reexamination, HRAs must first determine the family's income for the previous 12-month period and use this amount as the family income for annual reexaminations; however, adjustments to reflect current income must be made. Any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination of family income in accordance with HRA policies in Chapter 9 and HUD regulations, must be considered. If, however, there have been no changes to income, then the amount of income calculated for the previous 12-month period is the amount that will be used to determine the family's rent. Policies related to conducting annual reexaminations are located in Chapter 9.

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6-I.D. EARNED INCOME

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

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

Earned income means income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare, social security, and governmental subsidies for certain benefits), or any cash or in-kind benefits [24 CFR 5.100].

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

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

HRA Policy

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

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

Military Pay

All regular pay, special pay and allowances of a member of the Armed Forces are counted except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11)].

Earnings of a Minor [24 CFR 5.609(b)(3)]

A minor is a member of the family, other than the head of household or spouse, who is under 18 years of age. Employment income earned by minors is not included in annual income. All other sources of unearned income, except those specifically excluded by the regulations, are included.

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

The earned income of a dependent full-time student in excess of the amount of the dependent deduction is excluded from annual income. All sources of unearned income, except those specifically excluded by the regulations, are included.

A family member other than the head of household or spouse/cohead is considered a full-time student if they are attending school or vocational training on a full-time basis [24 CFR 5.603(b)]. Full-time status is defined by the educational or vocational institution the student is attending [New PH OCC GB, *Lease Requirements,* p. 5].

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6-I.E. EARNED INCOME DISALLOWANCE [24 CFR 960.255; Streamlining Final Rule (SFR) Federal Register 3/8/16; Notice PIH 2023-27]

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

Calculation of the Disallowance

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

Calculation Method

Initial 12-Month Exclusion

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

HRA Policy

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

Second 12-Month Exclusion

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

HRA Policy

During the second 12-month exclusion period, the HRA will exclude 50 percent of any increase in income attributable to new employment or increased earnings.

During the 24-month eligibility period, the HRA will schedule and conduct an interim reexamination each time there is a change in the family member's annual income that affects or is affected by the EID (e.g., when the family member's income falls to a level at or below their baseline income, when one of the exclusion periods ends, and at the end of the lifetime maximum eligibility period).

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Lifetime Limitation

The EID has a two-year (24-month) lifetime maximum. The two-year eligibility period begins at the same time that the initial exclusion period begins and ends 24 months later. During the 24-month period, an individual remains eligible for EID even if they begin to receive assistance from a different housing agency, move between public housing and Section 8 assistance, or have breaks in assistance. The EID will sunset on January 1, 2026. In no circumstances will a family member's exclusion period continue past January 1, 2026.

Individual Savings Accounts [24 CFR 960.255(d)]

The HRA may, but is not required to, establish a policy to offer a qualified family paying income-based rent an ISA instead of being given the EID.

HRA Policy

The HRA chooses not to establish a system of individual savings accounts (ISAs) for families who qualify for the EID.

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6-I.F. BUSINESS AND SELF-EMPLOYMENT INCOME [24 CFR 5.609(b)(28); Notice PIH 2023-27]

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

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

HRA Policy

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

Independent Contractors

Income received as an independent contractor is included in annual income, even if the source, date, or amount of the income varies [24 CFR 2.609 (b)(24)].

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

Business Expansion

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

HRA Policy

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

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Capital Indebtedness

HUD regulations do not permit the HRA to deduct from gross income the amortization of capital indebtedness.

HRA Policy

Capital indebtedness is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means the HRA will allow as a business expense interest, but not principal, paid on capital indebtedness.

Negative Business Income

If the net income from a business is negative, no business income will be included in annual income; a negative amount will not be used to offset other family income.

Withdrawal of Cash or Assets from a Business

HUD regulations require the HRA to include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family.

HRA Policy

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of an assisted family provided an up-front loan of $2,000 to help a business get started, the HRA will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.

Co-owned Businesses

HRA Policy

If a business is co-owned with someone outside the family, the family must document the share of the business it owns. If the family's share of the income is lower than its share of ownership, the family must document the reasons for the difference.

Assets Owned by a Business Entity

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

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6-I.G. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9)]

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

Types of 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 [24 CFR 5.609(b)(9)(i)].

Examples of assistance under title IV of the HEA include:

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

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

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

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

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

- For tuition, book, supplies, room and board, or other fees required and charged to the student by the 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 educational institution and not residing in an assisted unit.

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

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

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

Student financial assistance, does not include:

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

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

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

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HRA Policy

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

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

Example 1

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

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

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

Example 2

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

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

Example 3

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

Example 4

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

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6-I.H. PERIODIC PAYMENTS [Notice PIH 2023-27]

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

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

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

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

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

HRA Policy

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

When a delayed-start payment is received that is to be included and the family and reports this during the period in which the HRA is processing an annual reexamination, the HRA will adjust the family's rent retroactively for the period the payment was intended to cover.

If the delayed-start payment is received outside of the time the HRA is processing an annual reexamination, then the HRA will consider whether the amount meets the threshold to conduct an interim reexamination. If so, the HRA will conduct an interim in accordance with HRA policies in Chapter 9. If not, the HRA will consider the amount when processing the family's next annual recertification.

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

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

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

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

Social Security Benefits [Notice PIH 2023-27]

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

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

HRA Policy

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. When the SSA overpays an individual, resulting in a withholding or deduction from their benefit amount until the overpayment is paid in full, the HRA must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount.

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Alimony and Child Support

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

HRA Policy

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

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

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

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

At new admission or interim recertification, if any lump sum payments were made in the past 12 months, the HRA will determine the likelihood of the family receiving another similar payment within the next 12 months before deciding whether or not this amount will be included in the calculation of annual income.

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

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

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

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

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

Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income as nonrecurring income, even if the source, date, or amount of the income varies.

Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from a family's annual income as nonrecurring income. This exclusion does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended.

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

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

Nonrecurring income that is excluded under the regulations includes:

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

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6-I.J. WELFARE ASSISTANCE

Overview

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments.

Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR 5.615]

The HRA must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided as Exhibit 6-3. The requirements are summarized below. This rule applies only if a family was receiving HCV assistance at the time the sanction was imposed.

Covered Families

The families covered by 24 CFR 5.615 are those "who receive welfare assistance or other public assistance benefits ('welfare benefits') from a State or other public agency ('welfare agency') under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance" [24 CFR 5.615(b)]

Imputed Income

When a welfare agency imposes a sanction that reduces a family's welfare income because the family commits fraud or fails to comply with the agency's economic self-sufficiency program or work activities requirement, the HRA must include in annual income "imputed" welfare income. The HRA must request that the welfare agency provide the reason for the reduction of benefits and the amount of the reduction of benefits. The imputed welfare income is the amount that the benefits were reduced as a result of the sanction.

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits, (2) if a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements, or (3) because a family member has not complied with other welfare agency requirements [24 CFR 5.615(b)(2)].

Offsets

The amount of the imputed welfare income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero [24 CFR 5.615(c)(4)].

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

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

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

The payments must be received for caregiving services a family member provides to enable another member of the assisted family who has a disability to reside in the family's assisted unit. Payments to a family member for caregiving services for someone who is not a member of the assisted family (such as for a relative that resides elsewhere) are not excluded from income.

Furthermore, if the agency is making payments for caregiving services to the family member for an assisted family member and for a person outside of the assisted family, only the payments attributable to the caregiving services for the caregiver's assisted family member would be excluded from income.

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

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

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

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

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

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

- Payments received for the care of foster children or foster adults or state or tribal kinship or guardianship care payments [24 CFR 5.609(b)(4)].
- Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation [24 CFR 5.609(b)(5)]. However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that are received in lieu of wages for workers' compensation are included in annual income [Notice PIH 2023-27].
- Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member [24 CFR 5.609(b)(6)].
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled [24 CFR 5.609(b)(7)].
- Income and distributions from any Coverdell education savings account under Section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under Section 529 of such Code [24 CFR 5.609(b)(10)].
- Income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by federal, state, or local government [24 CFR 5.609(b)(10)].
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11)].
- Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance [24 CFR 5.609(b)(17)]. This income exclusion applies only to veterans in need of regular aid and attendance and not to other beneficiaries of the payments, such as a surviving spouse [Notice PIH 2023-27].
- Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car) [24 CFR 5.609(b)(20)]. The loan borrower or co-borrower must be a member of the family for this income exclusion to be applicable [Notice PIH 2023-27].

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- Payments received by tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other federal law [24 CFR 5.609(b)(21)]. Generally, payments received by tribal members in excess of the first $2,000 of per capita shares are included in a family's annual income for purposes of determining eligibility. However, as explained in Notice PIH 2023-27, payments made under the Cobell Settlement, and certain per capita payments under the recent Tribal Trust Settlements, must be excluded from annual income in HUD programs that adopt the definitions of *annual income* in 24 CFR 5.609, the Census Long Form, and the IRS Form 1040, including the programs affected by Notice PIH 2023-27.
- Replacement housing "gap" payments made in accordance with 49 CFR Part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another federally subsidized housing unit. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments [24 CFR 5.609(b)(23)].
- Income earned on amounts placed in a family's Family Self-Sufficiency account [24 CFR 5.609(b)(27)].
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred e.g., special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(12)(ii)].
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(b)(12)(i)].
- Amounts received under a resident service stipend not to exceed $200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the HRA or owner, on a part-time basis, that enhances the quality of life in the development [24 CFR 5.600(b)(12)(iii)].

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

  HRA Policy

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

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

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

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

- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(b)(13)].
- Adoption assistance payments for a child in excess of the amount of the dependent deduction per adopted child [24 CFR 5.609(b)(15)].
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(b)(20)].

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- Amounts that HUD is required by federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(b) apply. HUD will publish a notice in the *Federal Register* to identify the benefits that qualify for this exclusion. Updates will be published when necessary [24 CFR 5.609(b)(22)].

  HUD publishes an updated list of these exclusions periodically. The most recent list of exclusions was published in the *Federal Register* on May 20, 2014. It includes:

  (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))

  (b) Benefits under Section 1780 of the School Lunch Act and Child Nutrition Act of 1966, including WIC

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

  (d) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))

  (e) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)

  (f) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))

  (g) Payments received under programs funded in whole or in part under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

  (h) Deferred disability benefits from the Department of Veterans Affairs, whether received as a lump sum or in monthly prospective amounts

  (i) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)

  (j) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b))

  (k) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled *Elouise Cobell et al.* v. *Ken Salazar et al.,* for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010

  (l) The first $2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first $2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408)

  (m) Benefits under the Indian Veterans Housing Opportunity Act of 2010 (only applies to Native American housing programs)

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

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(o) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent Orange* product liability litigation, M.D.L. No. 381 (E.D.N.Y.)

(p) Payments received under 38 U.S.C. 1833(c) to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean service veterans born with spinal bifida

(q) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)

(r) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q)

(s) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))

(t) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)

(u) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965j, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 programs, the exception found in § 237 of Public Law 109–249 applies and requires that the amount of financial assistance in excess of tuition and mandatory fees shall be considered income in accordance with the provisions codified at 24 CFR 5.609(b)(9), except for those persons with disabilities as defined by 42 U.S.C. 1437a(b)(3)(E) (Pub. L. 109–249) (See Section 6-I.L. for exceptions.)

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

(w) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602)

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

(y) Payments made from the proceeds of Indian tribal trust cases as described in Notice PIH 2013–30, "Exclusion from Income of Payments under Recent Tribal Trust Settlements" (25 U.S.C. 117b(a))

(z) Major disaster and emergency assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations

(aa) Distributions from an ABLE account, and actual or imputed interest on the ABLE account balance [See also Notice PIH 2019-09]

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PART II: ASSETS

6-II.A. OVERVIEW

Annual income includes all actual anticipated income from assets (unless otherwise excluded by the regulations) even if the asset itself is excluded from net family assets [Notice PIH 2023-27].

The regulation at 24 CFR 5.603(b)(3) provides a list of items that are excluded from the calculation of net family assets. Note, unlike previous versions of the regulations, the current regulations do not list types of assets that are included in annual income. Instead, HUD relies on the definition of items excluded from assets to provide the scope of what is included. Exhibit 6-2 provides the regulatory definition of *net family assets*.

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

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

HRA Policy

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

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

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6-II.B. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE [24 CFR 5.603(b)(2)]

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

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

Minimum Threshold

HUD does not specify a minimum threshold for counting assets disposed of for less than fair market value. AN HRA may establish a policy to ignore small amounts such as charitable contributions [New PH OCC GB, *Income Determinations,* p. 24].

HRA Policy

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

Separation or Divorce

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

HRA Policy

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

Foreclosure or Bankruptcy

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

Asset Owned by a Business Entity

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

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Family Declaration

HRA Policy

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

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6-II.C. ASSET INCLUSIONS AND EXCLUSIONS

Checking and Savings Accounts [Notice PIH 2023-27]

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

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

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

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

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

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

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

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

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

HRA Policy

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

The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

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

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

All assets are categorized as either *real property* (e.g., land, a home) or *personal property*.

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

The value of necessary items of personal property is excluded from the calculation of net family assets. Necessary items of personal property include a car used for commuting or medical devices.

HUD defines *necessary personal property* as items essential to the family for the maintenance, use, and occupancy of the premises as a home; or they are necessary for employment, education, or health and wellness. Necessary personal property includes more than merely items that are indispensable to the bare existence of the family. It may include personal effects (such as items that are ordinarily worn or utilized by the individual), items that are convenient or useful to a reasonable existence, and items that support and facilitate daily life within the family's home. Necessary personal property also includes items that assist a household member with a disability, including any items related to disability-related needs, or that may be required for a reasonable accommodation for a person with a disability. Necessary personal property does not include bank accounts, other financial investments, or luxury items. Items of personal property that do not qualify as necessary personal property are classified as non-necessary personal property.

The combined value of all non-necessary items of personal property is only included in annual income when the combined total value exceeds $50,000 (adjusted annually). When the combined value of all non-necessary personal property does not exceed $50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets.

While not an exhaustive list, the following table from Notice PIH 2023-27 provides examples of necessary and non-necessary personal property.

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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 (e.g., toys, books) Wedding and engagement rings Jewelry used in religious/cultural celebrations and ceremonies Religious and cultural items Medical equipment and supplies Health care–related supplies Musical instruments used by the family Personal computers, phones, tablets, and related equipment Professional tools of trade of the family, for example professional books Educational materials and equipment used by the family, including equipment to accommodate persons with disabilities Equipment used for exercising (e.g., treadmill, stationary bike, kayak, paddleboard, ski equipment)	Recreational car/vehicle not needed for day-to-day transportation for personal or business use (campers, motorhomes, traveling trailers, all-terrain vehicles (ATVs)) Bank accounts or other financial investments (e.g., checking account, savings account, stocks/bonds) Recreational boat/watercraft Expensive jewelry without religious or cultural value, or which does not hold family significance Collectibles (e.g., coins/stamps) Equipment/machinery that is not used to generate income for a business Items such as gems/precious metals, antique cars, artwork, etc.

HRA Policy

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

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

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

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

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

However, these amounts may count toward net family assets. The HRA must consider any actual or imputed returns from assets as income at the next applicable income examination. In the case where the lump sum addition to assets would lead to imputed income, which is unearned income, that increases the family's annual adjusted income by 10 percent or more, then the addition of the lump sum to the family's assets will trigger an immediate interim reexamination of income in accordance with Chapter 9. This reexamination of income must take place as soon as the lump sum is added to the family's net family assets unless the addition takes place in the last three months of family's income certification period and the HRA chooses not to conduct the examination.

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

HRA Policy

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

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Jointly Owned Assets [Notice PIH 2023-27]

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

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

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

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

- The income is specifically excluded;
- The family demonstrates that they do not have access to the income from that asset; or
- The family only has access to a portion of the income from that asset.

HRA Policy

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

If an individual is a beneficiary who is entitled to access the account's funds only upon the death of the account's owner, and may not otherwise withdraw funds from an account, then the account is not an asset to the assisted family, and the family should provide proper documentation demonstrating that they are only a beneficiary on the account.

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

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

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

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

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

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

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

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

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

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

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Revocable trusts under the control of the family or household (e.g., the grantor is a member of the assisted family or household) are considered assets and must be included in net family assets.

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

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

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

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

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

All amounts received by a family in the form of federal tax refunds or refundable tax credits are excluded from a family's net family assets for a period of 12 months after receipt by the family.

At the time of an annual or interim reexamination of income, if the federal tax refund was received during the 12 months preceding the effective date of the reexamination, then the amount of the refund that was received by the family is subtracted from the total value of the account in which the federal tax refund or refundable tax credits were deposited. When the subtraction results in a negative number, then the balance of the asset is considered $0.

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

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Asset Exclusions [24 CFR 5.603(b)]

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

- The value of any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals [24 CFR 5.603(b)(3)(iii)].
- The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located [24 CFR 5.603(b)(3)(iv)].
  - *Real property* as used in this part has the same meaning as that provided under the law of the state in which the property is located [24 CFR 5.100].
  - Examples of this include but are not limited to co-ownership situations (including situations where one owner is a victim of domestic violence), where one party cannot unilaterally sell the real property; property that is tied up in litigation; and inherited property in dispute [Notice PIH 2023-27].
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability [24 CFR 5.603(b)(3)(v)];
- The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 [24 CFR 5.603(b)(3)(vi)];
- The value of any qualified tuition program under Section 529 of such Code [24 CFR 5.603(b)(3)(vi)];
- The value of any "baby bond" account created, authorized, or funded by federal, state, or local government [24 CFR 5.603(b)(3)(vi)];
- Interests in Indian trust land [24 CFR 5.603(b)(3)(vii)];
- Equity in a manufactured home where the family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(viii)];
- Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(ix)];
- Family Self-Sufficiency accounts [24 CFR 5.603(b)(3)(x)];
- Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family [24 CFR 5.603(b)(3)(xi)].
- The full amount of assets held in an irrevocable trust [Notice PIH 2023-27]; and
- The full amount of assets held in a revocable trust where a member of the family is the beneficiary, but the grantor/owner and trustee of the trust is not a member of the participant family or household [Notice PIH 2023-27].

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6-II.D. DETERMINING INCOME FROM ASSETS

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

Net Family Assets

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

HRA Policy

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

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

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

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

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Actual Income from Assets

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

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

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

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

Imputed Income from Assets

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

An asset with an actual return of $0 (such as a non-interest-bearing checking account), is not the same as an asset for which an actual return cannot be computed (such as non-necessary personal property). If the asset is a financial asset and there is no income generated (for example, a bank account with a zero percent interest rate or a stock that does not issue cash dividends), then the asset generates zero actual asset income, and imputed income is not calculated. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, and when no dividend is issued, the actual return is $0. When the stock never issues dividends, the actual return is consistently $0.

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PART III: ADJUSTED INCOME

6-III.A. INTRODUCTION

Overview

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

> 5.611 *Adjusted income* means annual income (as determined under § 5.609) of the members of the family residing or intending to reside in the dwelling unit, after making the following deductions:
>
> (a) *Mandatory deductions*
>
> (1) $480 for each dependent (adjusted annually by HUD, rounded to the next lowest multiple of $25);
>
> (2) $525 for any elderly family or disabled family (adjusted annually by HUD, rounded to the next lowest multiple of $25);
>
> (3) The sum of the following, to the extent the sum exceeds ten percent of annual income:
>
> (i) Unreimbursed health and medical care expenses of any elderly family or disabled family;
>
> (ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed; and
>
> (4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

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

Anticipating Expenses

HRA Policy

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

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

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

6-III.B. DEPENDENT DEDUCTION

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

6-III.C. ELDERLY OR DISABLED FAMILY DEDUCTION

A single deduction of $525 is taken for any elderly or disabled family (which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of $25) [24 CFR 5.611(a)(2)].

An *elderly family* is a family whose head, spouse, cohead, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR 5.403].

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6-III.D. HEALTH AND MEDICAL CARE EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i)]

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

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

Definition of *Medical Expenses*

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

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

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

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

HRA Policy

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

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

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

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

Earned Income Limit on the Disability Assistance Expense Deduction

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)].

The disability expense deduction is capped by the amount of "earned income received by family members who are 18 years of age or older and who are able to work" because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

HRA Policy

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

When the HRA determines that the disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members' incomes. [New PH OCC GB, *Income Determination,* p. 28].

Eligible Auxiliary Apparatus [Notice PIH 2023-27]

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

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Eligible Attendant Care [Notice PIH 2023-27]

Examples of attendant care expenses can include teaching a person with disabilities how to perform day-to-day tasks independently like cleaning, bathing, doing laundry, and cooking. Attendant care can be 24-hour care, or care during sporadic periods throughout the day. The family determines the type of attendant care that is appropriate for the person with disabilities.

HRA Policy

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

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

Payments to Family Members

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

Necessary and Reasonable Expenses

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

HRA Policy

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

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

HRA Policy

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

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

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6-III.F. CHILD CARE EXPENSE DEDUCTION

HUD defines *child care expenses* at 24 CFR 5.603(b) as "amounts anticipated to be paid by the family for the care of children under 13 years of age (including foster children) during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income."

Clarifying the Meaning of *Child* for This Deduction

Child care expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household [VG, p. 26]. However, child care expenses for foster children that are living in the assisted family's household are included when determining the family's child care expenses [HCV GB, p. 5-29].

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

HRA Policy

The family must identify the family member(s) enabled to pursue an eligible activity. The term *eligible activity* in this section means any of the activities that may make the family eligible for a child care deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family's request, the HRA will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

HRA Policy

If the child care expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member's job search efforts are not commensurate with the child care expense being allowed by the HRA.

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Furthering Education

HRA Policy

If the child care expense being claimed is to enable a family member to further their education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the child care claimed.

Being Gainfully Employed

HRA Policy

If the child care expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that child care is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

Earned Income Limit on Child Care Expense Deduction

When a family member looks for work or furthers their education, there is no cap on the amount that may be deducted for child care – although the care must still be necessary and reasonable. However, when child care enables a family member to work, the deduction is capped by "the amount of employment income that is included in annual income" [24 CFR 5.603(b)].

The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

When the person who is enabled to work is a person with disabilities who receives the earned income disallowance (EID) or a full-time student whose earned income above $480 is excluded, child care costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes $15,000 but because of the EID only $5,000 is included in annual income, child care expenses are limited to $5,000.

The HRA must not limit the deduction to the least expensive type of child care. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB, p. 5-30].

HRA Policy

When the child care expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, the HRA generally will limit allowable child care expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

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Eligible Child Care Expenses

The type of care to be provided is determined by the assisted family. The HRA may not refuse to give a family the child care expense deduction because there is an adult family member in the household that may be available to provide child care [VG, p. 26].

Allowable Child Care Activities

HRA Policy

For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of child care.

The costs of general housekeeping and personal services are not eligible. Likewise, child care expenses paid to a family member who lives in the family's unit are not eligible; however, payments for child care to relatives who do not live in the unit are eligible.

If a child care provider also renders other services to a family or child care is used to enable a family member to conduct activities that are not eligible for consideration, the HRA will prorate the costs and allow only that portion of the expenses that is attributable to child care for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. Unless otherwise specified by the child care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Necessary and Reasonable Costs

Child care expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further their education, and (2) the family certifies, and the child care provider verifies, that the expenses are not paid or reimbursed by any other source.

HRA Policy

Child care expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For child care that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

To establish the reasonableness of child care costs, the HRA will use the schedule of child care costs from a qualified local entity that either subsidizes child care costs or licenses child care providers. Families may present, and the HRA will consider, justification for costs that exceed typical costs in the area.

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

Health and Medical Care and Disability Assistance Expenses [24 CFR 5.611(c); Notice PIH 2023-27]

The regulations provide for two types of hardship exemption categories for families that qualify for unreimbursed health and medical care expenses and/or disability assistance expenses. A family will benefit from this hardship exemption only if the family has eligible expenses that can be deducted in excess of five percent of annual income. In order to claim unreimbursed health and medical care expenses, the family must have a head, cohead, or spouse that is elderly or a person with a disability. In order to claim unreimbursed reasonable attendant care and auxiliary apparatus expenses, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed.

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

HRAsed-In Relief

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

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

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

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

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HRAs must track the 24-month HRAse-period for each eligible family, even if a family's expenses go below the appropriate HRAse-in percentage, during the first or second 12-month HRAse-in period. The HRAse-in must continue for families who move to another public housing unit at the same HRA. When the family is treated as a new admission under a different property/program (e.g., the family moves from public housing to the HCV program), unless the HRA has a written policy to continue the HRAsed-in relief upon admission, the family's expense deduction will be calculated using the 10-percent threshold unless request for general relief is approved by the HRA.

HRA Policy

The HRA will not continue the HRAsed-in relief for families who move from the HCV program to public housing. These families will be treated as new admissions and the sum of expenses that exceeds 10 percent of annual income will be used to calculate their adjusted income.

General Relief

The second category is for families that can demonstrate:

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

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

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

HRA Policy

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

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

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

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

Other circumstances as determined by the HRA.

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

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

HRA Policy

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

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

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

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

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

HRA Policy

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

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

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

The HRA must develop a policy to define what constitutes a hardship, which includes the family's inability to pay rent. The HRA must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. HRAs must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

HRA Policy

For a family to qualify, they must demonstrate that their inability to pay rent would be as a result of the loss of this deduction. The HRA defines this hardship as a potential decrease in income or increase in other expenses that would result from the loss of the child care expense and such loss would impact the family's ability to pay their rent.

Some factors to consider when determining if the family is unable to pay rent may include determining that the rent, utility payment, and applicable expenses (child care expenses or health and medical expenses) are more than 40 percent of the family's adjusted income, or verifying whether the family has experienced unanticipated expenses, such as large medical bills, that have affected their ability to pay their rent.

The family must also demonstrate that the child care expense is still necessary even though the family member is no longer employed or furthering their education. The HRA will consider qualification under this criterion on a case-by case basis (for example, if the family member who was employed has left their job in order to provide uncompensated care to an elderly friend or family member who is severely ill and lives across town).

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

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

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

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

HRA Policy

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

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

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

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

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

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

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

HRA Policy

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

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

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

If the HRA chooses to adopt permissive deductions, the HRA is not eligible for an increase in Capital Fund and Operating Fund formula grants based on the application of those deductions. The HRA must establish a written policy for such deductions.

The *Form HUD-50058 Instruction Booklet* states that the maximum allowable amount for total permissive deductions is less than $90,000 per year.

HRA Policy

The HRA has opted not to use permissive deductions.

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PART IV: CALCULATING RENT

6-IV.A. OVERVIEW OF INCOME-BASED RENT CALCULATIONS

The first step in calculating income-based rent is to determine each family's total tenant payment (TTP). Then, if the family is occupying a unit that has tenant-paid utilities, the utility allowance is subtracted from the TTP. The result of this calculation, if a positive number, is the tenant rent. If the TTP is less than the utility allowance, the result of this calculation is a negative number, and is called the utility reimbursement, which may be paid to the family or directly to the utility company by the HRA.

TTP Formula [24 CFR 5.628]

HUD regulations specify the formula for calculating the total tenant payment (TTP) for an assisted family. TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- The welfare rent (in as-paid states only)
- A minimum rent between $0 and $50 that is established by the HRA

The HRA has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-IV.B.

Welfare Rent [24 CFR 5.628]

HRA Policy

Welfare rent does not apply in this locality.

Minimum Rent [24 CFR 5.630]

HRA Policy

The minimum rent for this locality is $50.

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Optional Changes to Income-Based Rents [24 CFR 960.253(c)(2) and PH Occ GB, pp. 131-134]

HRAs have been given very broad flexibility to establish their own, unique rent calculation systems as long as the rent produced is not higher than that calculated using the TTP and mandatory deductions. At the discretion of the HRA, rent policies may structure a system that uses combinations of permissive deductions, escrow accounts, income-based rents, and the required flat and minimum rents.

The HRA's minimum rent and rent choice policies still apply to affected families. Utility allowances are applied to HRA designed income-based rents in the same manner as they are applied to the regulatory income-based rents.

The choices are limited only by the requirement that the method used not produce a TTP or tenant rent greater than the TTP or tenant rent produced under the regulatory formula.

HRA Policy

The HRA chooses not to adopt optional changes to income-based rents.

Ceiling Rents [24 CFR 960.253 (c)(2) and (d)]

Ceiling rents are used to cap income-based rents. They are part of the income-based formula. If the calculated TTP exceeds the ceiling rent for the unit, the ceiling rent is used to calculate tenant rent (ceiling rent/TTP minus utility allowance). Increases in income do not affect the family since the rent is capped. The use of ceiling rents fosters upward mobility and income mixing.

Because of the mandatory use of flat rents, the primary function of ceiling rents now is to assist families who cannot switch back to flat rent between annual reexaminations and would otherwise be paying an income-based tenant rent that is higher than the flat rent.

Ceiling rents must be set to the level required for flat rents (which will require the addition of the utility allowance to the flat rent for properties with tenant-paid utilities) [PH Occ GB, p. 135].

HRA Policy

The HRA chooses not to use ceiling rents.

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Utility Reimbursement [24 CFR 982.514(b); 982.514]

Utility reimbursement occurs when any applicable utility allowance for tenant-paid utilities exceeds the TTP. HUD permits the HRA to pay the reimbursement to the family or directly to the utility provider.

HRA Policy

The HRA will make utility reimbursements to the family.

The HRA may make all utility reimbursement payments to qualifying families on a monthly basis or may make quarterly payments when the monthly reimbursement amount is $15.00 or less. Reimbursements must be made once per calendar-year quarter, either prospectively or retroactively, and must be prorated if the family leaves the program in advance of its next quarterly reimbursement. The HRA must also adopt hardship policies for families for whom receiving quarterly reimbursement would create a financial hardship. The HRA must issue reimbursements that exceed $15.00 per month on a monthly basis.

HRA Policy

The HRA will issue all utility reimbursements monthly.

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6-IV.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]

Overview

If the HRA establishes a minimum rent greater than zero, the HRA must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the HRA determines that a hardship exists, the family share is the highest of the remaining components of the family's calculated TTP.

HUD-Defined Financial Hardship

Financial hardship includes the following situations:

(1) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

HRA Policy

A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.

For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following: (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

(2) The family would be evicted because it is unable to pay the minimum rent.

HRA Policy

For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent to the owner or tenant-paid utilities.

(3) Family income has decreased because of changed family circumstances, including the loss of employment.

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(4) A death has occurred in the family.

HRA Policy

In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).

(5) The family has experienced other circumstances determined by the HRA.

HRA Policy

The HRA has not established any additional hardship criteria.

Implementation of Hardship Exemption

Determination of Hardship

When a family requests a financial hardship exemption, the HRA must suspend the minimum rent requirement beginning the first of the month following the family's request.

The HRA then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

HRA Policy

The HRA defines temporary hardship as a hardship expected to last 90 days or less. Long-term hardship is defined as a hardship expected to last more than 90 days.

When the minimum rent is suspended, the family share reverts to the highest of the remaining components of the calculated TTP. The example below demonstrates the effect of the minimum rent exemption.

Example: Impact of Minimum Rent Exemption Assume the HRA has established a minimum rent of $50.	
Family Share – No Hardship	**Family Share – With Hardship**
$0 30% of monthly adjusted income $15 10% of monthly gross income N/A Welfare rent $50 Minimum rent	$0 30% of monthly adjusted income $15 10% of monthly gross income N/A Welfare rent $50 Minimum rent
Minimum rent applies. TTP = $50	Hardship exemption granted. TTP = $15

HRA Policy

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay the minimum rent.

The HRA will make the determination of hardship within 30 calendar days.

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No Financial Hardship

If the HRA determines there is no financial hardship, the HRA will reinstate the minimum rent and require the family to repay the amounts suspended.

For procedures pertaining to grievance hearing requests based upon the HRA's denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

HRA Policy

The HRA will require the family to repay the suspended amount within 30 calendar days of the HRA's notice that a hardship exemption has not been granted.

Temporary Hardship

If the HRA determines that a qualifying financial hardship is temporary, the HRA must suspend the minimum rent for the 90-day period beginning the first of the month following the date of the family's request for a hardship exemption.

At the end of the 90-day suspension period, the family must resume payment of the minimum rent and must repay the HRA the amounts suspended. HUD requires the HRA to offer a reasonable repayment agreement, on terms and conditions established by the HRA. The HRA also may determine that circumstances have changed and the hardship is now a long-term hardship.

For procedures pertaining to grievance hearing requests based upon the HRA's denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

HRA Policy

The HRA will enter into a repayment agreement in accordance with the HRA's repayment agreement policy (see Chapter 16).

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Long-Term Hardship

If the HRA determines that the financial hardship is long-term, the HRA must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

HRA Policy

The hardship period ends when any of the following circumstances apply:

(1) At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.

(2) For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a $60/month child support payment, the hardship will continue to exist until the family receives at least $60/month in income from another source or once again begins to receive the child support.

(3) For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

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6-IV.C. UTILITY ALLOWANCES [24 CFR 965, Subpart E]

Overview

Utility allowances are provided to families paying income-based rents when the cost of utilities is not included in the rent. When determining a family's income-based rent, the HRA must use the utility allowance applicable to the type of dwelling unit leased by the family.

For policies on establishing and updating utility allowances, see Chapter 16.

Reasonable Accommodation and Individual Relief

On request from a family, HRAs must approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family with a disability [24 CFR 8 and 100, PH Occ GB, p. 172].

Likewise, residents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability [PH Occ GB, p. 172].

See Chapter 2 for policies related to reasonable accommodations.

Further, the HRA may grant requests for relief from charges in excess of the utility allowance on reasonable grounds, such as special needs of the elderly, ill, or residents with disabilities, or special factors not within control of the resident, as the HRA deems appropriate. The family must request the higher allowance and provide the HRA with an explanation about the additional allowance required.

HRAs should develop criteria for granting individual relief, notify residents about the availability of individual relief, and notify participants about the availability of individual relief programs (sometimes referred to as "Medical Baseline discounts") offered by the local utility company [Utility Allowance GB, p. 19; 24 CFR 965.508].

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HRA Policy

The family must request the higher allowance and provide the HRA with information about the amount of additional allowance required.

The HRA will consider the following criteria as valid reasons for granting individual relief:

The family's consumption was mistakenly portrayed as excessive due to defects in the meter or errors in the meter reading.

The excessive consumption is caused by a characteristic of the unit or owner-supplied equipment that is beyond the family's control, such as a particularly inefficient refrigerator or inadequate insulation. The allowance should be adjusted to reflect the higher consumption needs associated with the unit until the situation is remedied. The resident should be granted individual relief until the allowance is adjusted.

The excessive consumption is due to special needs of the family that are beyond their control, such as the need for specialized equipment in the case of a family member who is ill, elderly, or who has a disability.

In determining the amount of the reasonable accommodation or individual relief, the HRA will allow a reasonable measure of additional usage as necessary. To arrive at the amount of additional utility cost of specific equipment, the family may provide information from the manufacturer of the equipment, or the family or HRA may conduct an internet search for an estimate of usage or additional monthly cost.

Information on reasonable accommodation and individual relief for charges in excess of the utility allowance will be provided to all residents at move-in and with any notice of proposed allowances, schedule surcharges, and revisions. The HRA will also provide information on utility relief programs or medical discounts (sometimes referred to as "Medical Baseline discounts") that may be available through local utility providers.

The family must request the higher allowance and provide the HRA with information about the amount of additional allowance required.

At its discretion, the HRA may reevaluate the need for the increased utility allowance as a reasonable accommodation at any regular reexamination.

If the excessive consumption is caused by a characteristic of the unit or HRA-supplied equipment that is beyond the family's control, such as a particularly inefficient refrigerator or inadequate insulation, the individual relief to the resident will cease when the situation is remedied.

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Utility Allowance Revisions [24 CFR 965.507]

The HRA must review at least annually the basis on which utility allowances have been established and, if reasonably required in order to continue adherence to standards described in 24 CFR 965.505, must establish revised allowances.

The HRA must revise the utility allowance schedule if there is a rate change that by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rates on which such allowances were based.

Adjustments to resident payments as a result of such changes must be retroactive to the first day of the month following the month in which the last rate change taken into account in such revision became effective. Such rate changes are not subject to the 60-day notice [24 CFR 965.507(b)].

The tenant rent calculations must reflect any changes in the HRA's utility allowance schedule [24 CFR 960.253(c)(3)].

HRA Policy

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

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6-IV.D. PRORATED RENT FOR MIXED FAMILIES [24 CFR 5.520]

HUD regulations prohibit assistance to ineligible family members. A *mixed family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. Except for non-public housing over income families, the HRA must prorate the assistance provided to a mixed family. The HRA will first determine TTP as if all family members were eligible and then prorate the rent based upon the number of family members that actually are eligible. To do this, the HRA must:

(1) Subtract the TTP from the flat rent applicable to the unit. The result is the maximum subsidy for which the family could qualify if all members were eligible.

(2) Divide the family maximum subsidy by the number of persons in the family to determine the maximum subsidy per each family member who is eligible (member maximum subsidy).

(3) Multiply the member maximum subsidy by the number of eligible family members.

(4) Subtract the subsidy calculated in the last step from the flat rent. This is the prorated TTP.

(5) Subtract the utility allowance for the unit from the prorated TTP. This is the prorated rent for the mixed family.

HRA Policy

Revised public housing flat rents will be applied to a mixed family's rent calculation at the first annual reexamination after the revision is adopted.

(6) When the mixed family's TTP is greater than the applicable flat rent, use the TTP as the prorated TTP. The prorated TTP minus the utility allowance is the prorated rent for the mixed family.

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6-IV.E. FLAT RENTS AND FAMILY CHOICE IN RENTS [24 CFR 960.253]

Flat Rents [24 CFR 960.253(b)]

The flat rent is designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient.

Changes in family income, expenses, or composition will not affect the flat rent amount because it is outside the income-based formula.

Policies related to the reexamination of families paying flat rent are contained in Chapter 9, and policies related to the establishment and review of flat rents are contained in Chapter 16.

Family Choice in Rents [24 CFR 960.253(a) and (e)]

With the exception of non-public housing over income families, once each year, the HRA must offer families the choice between a flat rent and an income-based rent. The family may not be offered this choice more than once a year. The HRA must document that flat rents were offered to families under the methods used to determine flat rents for the HRA.

HRA Policy

The annual HRA offer to a family of the choice between flat and income-based rent will be conducted upon admission and upon each subsequent annual reexamination.

The HRA will require families to submit their choice of flat or income-based rent in writing and will maintain such requests in the tenant file as part of the admission or annual reexamination process.

The HRA must provide sufficient information for families to make an informed choice. This information must include the HRA's policy on switching from flat rent to income-based rent due to financial hardship and the dollar amount of the rent under each option. However, if the family chose the flat rent for the previous year the HRA is required to provide an income-based rent amount only in the year that a reexamination of income is conducted or if the family specifically requests it and submits updated income information.

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Switching from Flat Rent to Income-Based Rent Due to Hardship [24 CFR 960.253(f)]

With the exception of non-public housing over-income families, a family can opt to switch from flat rent to income-based rent at any time if they are unable to pay the flat rent due to financial hardship. If the HRA determines that a financial hardship exists, the HRA must immediately allow the family to switch from flat rent to the income-based rent.

HRA Policy

Upon determination by the HRA that a financial hardship exists, the HRA will allow a family to switch from flat rent to income-based rent effective the first of the month following the family's request.

Reasons for financial hardship include:

- The family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings or other assistance
- The family has experienced an increase in expenses, because of changed circumstances, for medical costs, child care, transportation, education, or similar items
- Such other situations determined by the HRA to be appropriate

HRA Policy

The HRA considers payment of flat rent to be a financial hardship whenever the switch to income-based rent would be lower than the flat rent [PH Occ GB, p. 137].

Flat Rents and Earned Income Disallowance [A&O FAQs]

Because the EID is a function of income-based rents, a family paying flat rent cannot qualify for the EID even if a family member experiences an event that would qualify the family for the EID. If the family later chooses to pay income-based rent, they would only qualify for the EID if a new qualifying event occurred.

Under the EID original calculation method, a family currently paying flat rent that previously qualified for the EID while paying income-based rent and is currently within their exclusion period would have the exclusion period continue while paying flat rent as long as the employment that is the subject of the exclusion continues. A family paying flat rent could therefore see a family member's exclusion period expire while the family is paying flat rent.

Under the EID revised calculation method, a family currently paying flat rent that previously qualified for the EID while paying income-based rent and is currently within their exclusion period would have the exclusion period continue while paying flat rent regardless whether the employment that is the subject of the exclusion continues. A family paying flat rent could therefore see a family member's exclusion period expire while the family is paying flat rent.

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EXHIBIT 6-1: ANNUAL INCOME FULL DEFINITION

24 CFR 5.609

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

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

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

(b)Annual income does not include the following:

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

(2) The following types of trust distributions:

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

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

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

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

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

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

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

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

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

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

(9)

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

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

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

1) The Federal government;

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

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

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

(5) An institution of higher education.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(12)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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EXHIBIT 6-2: TREATMENT OF FAMILY ASSETS

24 CFR 5.603(b) Net Family Assets

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

(2) In determining net family assets, HRAs or owners, as applicable, must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

(3) Excluded from the calculation of net family assets are: (i) The value of necessary items of personal property; (ii) The combined value of all nonnecessary items of personal property if the combined total value does not exceed $50,000 (which amount will be adjusted by HUD in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers); (iii) The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; (iv) The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located; (v) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability; (vi) The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986, the value of any qualified tuition program under section 529 of such Code, the value of any Achieving a Better Life Experience (ABLE) account authorized under Section 529A of such Code, and the value of any "baby bond" account created, authorized, or funded by Federal, State, or local government. (vii) Interests in Indian trust land; (viii) Equity in a manufactured home where the family receives assistance under 24 CFR part 982; (ix) Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982; (x) Family Self-Sufficiency Accounts; and (xi) Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family.

(4) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the trust fund is not a family asset and the value of the trust is not included in the calculation of net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household.

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EXHIBIT 6-3: THE EFFECT OF WELFARE BENEFIT REDUCTION

24 CFR 5.615 -- Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.

(a) *Applicability.* This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

(b) *Definitions.* The following definitions apply for purposes of this section:

Covered families. Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

Economic self-sufficiency program. See definition at Sec. 5.603.

Imputed welfare income. The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

Specified welfare benefit reduction.

(1) A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

(2) "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:

(i) at expiration of a lifetime or other time limit on the payment of welfare benefits;

(ii) because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or

(iii) because a family member has not complied with other welfare agency requirements.

(c) *Imputed welfare income.*

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to the HRA by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

(2) At the request of the HRA, the welfare agency will inform the HRA in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform the HRA of any subsequent changes in the term or amount of such specified welfare benefit reduction. The HRA will use this information to determine the amount of imputed welfare income for a family.

(3) A family's annual income includes imputed welfare income in family annual income, as determined at the HRA's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the HRA by the welfare agency).

(4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed

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(5) The HRA may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

(d) *Review of HRA decision.*

(1) Public housing. If a public housing tenant claims that the HRA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the HRA denies the family's request to modify such amount, the HRA shall give the tenant written notice of such denial, with a brief explanation of the basis for the HRA determination of the amount of imputed welfare income. The HRA notice shall also state that if the tenant does not agree with the HRA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the HRA determination. The tenant is not required to pay an escrow deposit pursuant to Sec. 966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on the HRA determination.

(2) Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the HRA determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if the HRA denies the family's request to modify such amount, the HRA shall give the family written notice of such denial, with a brief explanation of the basis for the HRA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the HRA determination, the family may request an informal hearing on the determination under the HRA hearing procedure.

(e) *HRA relation with welfare agency.*

(1) The HRA must ask welfare agencies to inform the HRA of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the HRA written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2) The HRA is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to the HRA. However, the HRA is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

(3) Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The HRA shall be entitled to rely on the welfare agency notice to the HRA of the welfare agency's determination of a specified welfare benefits reduction.

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Chapter 7

VERIFICATION

[24 CFR 960.259, 24 CFR 5.230, Notice PIH 2023-27]

INTRODUCTION

The HRA must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain written authorization from the family in order to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. The HRA must not pass on the cost of verification to the family.

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

Part I describes the general verification process. Part II provides more detailed requirements related to family information. Part III provides information on income and assets, and Part IV covers mandatory deductions.

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies established by the HRA.

PART I: GENERAL VERIFICATION REQUIREMENTS

7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 960.259; 24 CFR 5.230; and Notice PIH 2023-27]

Consent Forms

The family must supply any information that the HRA or HUD determines is necessary to the administration of the program and must consent to HRA verification of that information [24 CFR 960.259(a)(1)]. All adult family members must sign consent forms as needed to collect information relevant to the family's eligibility and level of assistance. While HRAs must use form HUD-9886, this form does not release all the information necessary to the administration of the program. The HRA must also develop its own release forms to cover all other necessary information.

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Form HUD-9886 [24 CFR 5.230(b)(1), (b)(2), (c)(4), and (c)(5); Notice PIH 2023-27]

All adult applicants and tenants must sign form HUD-9886, Authorization for Release of Information. All adult family members (and the head and spouse/cohead regardless of age) are required to sign the Form HUD-9886 at admission. Participants, prior to January 1, 2024, signed and submitted Form HUD-9886 at each annual reexamination. HOTMA eliminated this requirement and instead required that the Form HUD-9886 be signed only once. On or after January 1, 2024 (regardless of the HRA's HOTMA compliance date), current program participants must sign and submit a new Form HUD-9886 at their next interim or annual reexamination. This form will only be signed once. Another Form HUD-9886 will not be submitted to the HRA except under the following circumstances:

- When any person 18 years or older becomes a member of the family;
- When a current member of the family turns 18; or
- As required by HUD or the HRA in administrative instructions.

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

HRA Policy

Family members turning 18 years of age between annual recertifications will be notified in writing that they are required to sign the required Consent to the Release of Information Form HUD-9886 at the family's next annual or interim reexamination, whichever is earlier.

The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the HRA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA).

The HRA may obtain any financial record from any financial institution, as the terms financial record and financial institution are defined in the Right to Financial Privacy Act (12 U.S.C. 3401), whenever the HRA determines the record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits [24 CFR 5.230(c)(4)].

The executed form will remain effective until the family is denied assistance, assistance is terminated, or the family provides written notification to the HRA to revoke consent.

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Penalties for Failing to Consent [24 CFR 5.232]

If any family member who is required to sign a consent form fails to do so, the HRA must deny admission to applicants and terminate the lease of tenants [24 CFR 5.232(a)]. The family may request a hearing in accordance with the HRA's grievance procedures.

However, this does not apply if the applicant, participant, or any member of their family, revokes their consent with respect to the ability of the HRA to access financial records from financial institutions, unless the HRA establishes a policy that revocation of consent to access financial records will result in denial or termination of assistance or admission [24 CFR 5.232(c)]. HRAs may not process interim or annual reexaminations of income without the family's executed consent forms.

HRA Policy

The HRA has established a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance in accordance with HRA policy.

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

Within 10 business days of the date the family provides written notice, the HRA will send the family a notice acknowledging receipt of the request and explaining that revocation of consent will result in denial or termination of assistance, as applicable. At the same time, the HRA will notify the local HUD office.

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7-I.B. USE OF OTHER PROGRAMS' INCOME DETERMINATIONS [24 CFR 5.609(c)(3) and Notice PIH 2023-27]

HRAs 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. HRAs are not required to accept or use determinations of income from other federal means-tested forms of assistance. If the HRA adopts a policy to accept this type of verification, the HRA must establish in policy when they will accept Safe Harbor income determinations and from which programs. HRAs must also create policies that outline the course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs. Means-tested federal public assistance programs include:

- Temporary Assistance for Needy Families (TANF) (42 U.S.C. 601, et seq.);
- Medicaid (42 U.S.C. 1396 et seq.);
- Supplemental Nutrition Assistance Program (SNAP) (42 U.S.C. 2011 et seq.);
- Earned Income Tax Credit (EITC) (26 U.S.C. 32);
- Low-Income Housing Credit (LIHTC) program (26 U.S.C. 42);
- Special Supplemental Nutrition Program for Woman, Infants, and Children (WIC) (42 U.S.C. 1786);
- Supplemental Security Income (SSI) (42 U.S.C. 1381 et seq.);
- Other programs administered by the HUD Secretary;
- Other means-tested forms of federal public assistance for which HUD has established a memorandum of understanding; and
- Other federal benefit determinations made in other forms of means-tested federal public assistance that the Secretary determines to have comparable reliability and announces through the *Federal Register.*

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If the HRA 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, HRAs 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 HRA:

- Income determination effective date;
- Program administrator's signature date;
- Family's signature date;
- Report effective date; or
- Other report-specific dates that verify the income determination date.

The only information that HRAs 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 HRA. HRAs are not permitted to mix and match Safe Harbor income determinations and other income verifications.

If the HRA is unable to obtain Safe Harbor documentation or if the family disputes the other program's income determination, the HRA must calculate the family's annual income using traditional methods as outlined in Notice PIH 2023-27 and this chapter.

If the HRA uses a Safe Harbor determination to determine the family's income, the family is obligated to report changes in income that meet the HRA's reporting requirement and occur after the effective date of the transaction.

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The amounts of unreimbursed reasonable attendant care expenses and child-care expenses deducted from a family's annual income, except for when a family is approved for a child-care expense hardship exemption, must still be capped by the amount earned by any family member who is enabled to work as a result of the expense. HRAs are therefore required to obtain third-party verification of the applicable employment income and cap the respective expense deductions accordingly.

HRA Policy

When available and applicable, the HRA will accept other programs' Safe Harbor determinations of income at annual reexamination to determine the family's total annual income. The HRA will still require third-party verification of all deductions such as the health and medical care expense or child care expense deductions. Further, if the family is eligible for and claims the disability assistance expense or child care expense deductions, where applicable, the HRA will obtain third-party verification of the amount of employment income of the individual(s) enabled to work in order to cap the respective expenses as required.

Prior to using any Safe Harbor determination from another program, the HRA will ask the family if they agree with the income amounts listed. If the family disputes the income amounts on the Safe Harbor determination, the HRA will obtain third-party verification of all sources of income and assets (as applicable).

The HRA will not accept other programs' determinations of income for any new admission or interim reexamination.

With the exception of income determinations made under the Low-Income Housing Tax Credit (LIHTC) program, the HRA will accept Safe Harbor determinations from any of the programs listed above.

In order to be acceptable, the income determination must:

Be dated within 12 months of the dates listed above;

State the family size;

Be for the entire family (i.e., the family members listed in the documentation must match the family's composition in the assisted unit, except for household members); and

Must state the amount of the family's annual income.

The determination need not list each source of income individually. If the HRA does not receive any acceptable income determination documentation or is unable to obtain documentation, then the HRA will revert to third-party verification of income for the family.

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When families present multiple verifications from the same or different acceptable Safe Harbor programs, the HRA will use the most recent income determination, unless the family presents acceptable evidence that the HRA should consider an alternative verification from a different Safe Harbor source.

When the HRA uses a Safe Harbor income determination from another program, and the family's income subsequently changes, the family is required to report the change to the HRA. Depending on when the change occurred, the change may or may not impact the HRA's calculation of the family's total annual income. Changes that occur between the time the HRA receives the Safe Harbor documentation and the effective date of the family's annual reexam will not be considered. If the family has a change in income that occurs after the annual reexam effective date, the HRA will conduct an interim reexam if the change meets the requirements for performing an interim reexamination as outlined in Chapter 9. In this case, the HRA will use third-party verification to verify the change.

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7-I.C. STREAMLINED INCOME DETERMINATIONS [24 CFR 960.257(c); Notice PIH 2023-27]

HUD permits HRAs to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained during the intake process and every three years thereafter, in the intervening years, the HRA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or other inflationary adjustment factor. Streamlining policies are optional. The HRA may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the HRA must perform third-party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

Two streamlining options are available, depending upon the percentage of the family's income that is received from fixed sources.

When 90 percent or more of a family's unadjusted income is from fixed sources, the HRA 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 HRAs may choose to adjust sources of non-fixed income based on third-party verification. HRAs 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.

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When less than 90 percent of a family's unadjusted income consists of fixed income, HRAs may apply a COLA to each of the family's sources of fixed income. HRAs must determine all other income using standard verification requirements as outlined in Notice PIH 2023-27.

HRA Policy

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

If 90 percent or more of a family's unadjusted income is from fixed income sources:

The HRA will streamline the annual reexamination process by applying the verified inflationary adjustment factor to fixed-income sources.

The family will be required to sign a self-certification stating that 90 percent or more of their unadjusted income is fixed income and that their sources of fixed income have not changed from the previous year.

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

Third-party verification of non-fixed income will be obtained annually regardless of the percentage of family income received from fixed sources.

If the family's sources of fixed income have changed from the previous year, the HRA will obtain third-party verification of any new sources of fixed income.

When less than 90 percent of a family's unadjusted income consists of fixed income:

The HRA will apply a COLA to each of the family's sources of fixed income.

All other income will be verified using third-party verification as outlined in Notice PIH 2023-27 and Chapter 7 of this policy.

In the following circumstances, regardless of the percentage of income received from fixed sources, the HRA will obtain third-party verification as outlined in Notice PIH 2023-27 and Chapter 7 of this policy:

Of all assets when net family assets exceed $50,000;

Of all deductions and allowances from annual income;

If a family member with a fixed source of income is added;

If verification of the COLA or rate of interest is not available;

During the intake process and at least once every three years thereafter.

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7-I.D. VERIFICATION HIERARCHY [Notice PIH 2023-27]

When the HRA does not use a streamlined determination of income or an income determination from a means-tested federal assistance program, HUD requires the HRA to obtain third-party verification of:

- Reported family annual income;
- The value of net family assets when the net value exceeds $50,000 (as adjusted annually);
- Expenses related to deductions from annual income; and
- Other factors that affect the determination of adjusted income.

HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general, HUD requires the HRA to use the most reliable form of verification that is available and to document the reasons when the HRA uses a lesser form of verification.

HUD developed a hierarchy that described verification documentation from most acceptable to least acceptable. The HRA must demonstrate efforts to obtain third party verification prior to accepting self-certification except instances when self-certification is explicitly allowed.

In order of priority, the hierarchy is:

- Highest: Level 6: Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system
- Highest: Level 5: Up-front Income Verification (UIV) using a non-EIV system
- High: Level 4:
  - Written third-party verification from the source, also known as "tenant-provided verification"
  - Or EIV plus self-certification
- Medium: Level 3: Written third-party verification form
- Medium: Level 2: Oral third-party verification
- Low: Level 1: Self-certification (not third-party verification)

Each of the verification methods is discussed in subsequent sections below.

File Documentation

The HRA must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that the HRA has followed all of the verification policies set forth in this ACOP. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

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7-I.E. LEVEL 5 AND 6 VERIFICATION: UP-FRONT INCOME VERIFICATION (UIV)

Up-front income verification (UIV) refers to the HRA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits for a number of individuals. HRAs may use UIV sources before or during a family reexamination.

UIV will be used to the extent that these systems are available to the HRA.

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 HRA has independently verified the UIV information and the family has been granted the opportunity to contest any adverse findings through the HRA's informal review/hearing processes.

Upfront Income Verification Using HUD's Enterprise Income Verification (EIV) System

HRAs must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during annual and streamlined reexaminations of family composition and income in accordance with 24 CFR 5.236 and Notice PIH 2023-27.

HUD's EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families.

The income validation tool (IVT) in EIV provides projections of discrepant income for wages, unemployment compensation, and SSA benefits pursuant to HUD's data sharing agreements with other departments.

The following policies apply to the use of HUD's EIV system.

EIV Income and IVT Reports

HRAs are required to obtain an EIV Income and IVT report for each family any time the HRA conducts an annual reexamination. However, HRAs are not required to use the EIV Income and IVT reports:

- At annual reexamination if the HRA used Safe Harbor verification from another means-test federal assistance program to determine the family's income; or
- During any interim reexaminations.

The EIV Income and IVT Reports are also not available for program applicants at admission.

When required to use the EIV Income Report, in order for the report to be considered current, the HRA must pull the report within 120 days of the effective date of the annual reexamination.

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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.

HRA Policy

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

Income and IVT reports will only be used for interim reexaminations as necessary. For example, EIV may be used to verify that families claiming zero income are not receiving income from any sources listed in EIV.

Income and IVT reports will be retained in resident files with the applicable annual documents or interim reexamination documents (if applicable) for the duration of tenancy.

When the HRA determines through EIV reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 15, Program Integrity.

New Hires Report [Notice PIH 2023-27]

The New Hires Report identifies participant families who have new employment within the last six months. The report is updated monthly.

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

HRAs that do not require families to undergo interim reexaminations for earned income increases after an interim decrease are not required to review this report between a family's annual reexamination. If the HRA requires an interim for increases in earned income after an interim decrease, then the HRA must review the report quarterly after the family's interim decrease.

HRA Policy

In accordance with HRA policies in Chapter 9, the HRA processes an interim reexamination for families who have increases in earned income when there was a previous decrease. Except for instances in which the HRA uses Safe Harbor income determinations to determine a family's annual income, the HRA will review the report quarterly.

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No Income Reported by HHS or SSA Report

This report is a tool for HRAs to identify participants who passed the SSA identity test, but no income information was reported by either HHS or SSA records. This scenario does not mean that they tenant does not have any income. HRAs obtain written, third-party verification of any income reported by the tenant. The HRA must identify in its policies and procedures when this report will be pulled [Notice PIH 2023-27].

HRA Policy

The HRA will generate the No Income Reported by HHS or SSA Report quarterly and will retain the report.

The HRA will re-verify the status of tenants identified on the report quarterly. Based on the information provided by the family and in EIV, the HRA may require that family members provide verifications or sign release forms in order to obtain additional verification.

When the HRA determines through this report and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 15, Program Integrity.

EIV Identity Verification Report

The EIV system verifies resident identities against Social Security Administration (SSA) records. These records are compared to HUD data for a match on social security number, name, and date of birth.

HRAs are required to use EIV's *Identity Verification Report* on a monthly basis to improve the availability of income information in EIV [Notice PIH 2023-27].

When identity verification for a resident fails, a message will be displayed within the EIV system and no income information will be displayed.

HRA Policy

The HRA will identify residents whose identity verification has failed by reviewing EIV's *Identity Verification Report* on a monthly basis.

The HRA will attempt to resolve discrepancies by obtaining appropriate documentation from the tenant. When the HRA determines that discrepancies exist as a result of HRA errors, such as spelling errors or incorrect birth dates, it will correct the errors promptly.

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

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

HRA Policy

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

When the Deceased Tenants Report identifies an individual as being deceased, HRAs must immediately send a letter to the head of household or emergency contact person (if the head of household is deceased and there is no other adult household member) to confirm the death of the listed household member. The HRA must conduct a home visit to determine if anyone is residing in the unit.

HRAs are required to list the move-out date for the family as of the date on which the family or designee of the deceased tenant's estate returned the keys and signed a vacate notice; the date the public housing lease was terminated; or the date the HRA legally regained possession of the unit, whichever occurs first.

When the only remaining household member is the live-in aide, the live-in aide is not entitled or eligible for continued occupancy. The HRA may not designate the live-in aide as the new head of household or change the relation code on the Form HUD-50058.

Other EIV Reports [Notice PIH 2023-27]

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

Upfront Income Verification Using Non-HUD Systems

HUD encourages HRAs to utilize other upfront verification sources such as the Work Number and web-based state benefits systems.

HRA Policy

The HRA will inform all applicants and residents of its use of the following UIV resources:

Work Number, Truv, Finicity, Bank VOD, Yardi Screening

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7-I.F. LEVEL 4 VERIFICATION [Notice PIH 2023-27]

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

EIV + Self-Certification

EIV may be used as written third-party verification and may be used to calculate income if the family agrees with the information in EIV and self-certifies that the amount is accurate and representative of current income. This practice is known as *EIV + self-certification*. When calculating income using this method, the HRA 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.

HRA Policy

At annual reexamination, if the HRA is unable to use a determination of income from a means-tested federal assistance program and if there are no reported changes to an income source, the HRA will use EIV + self-certification as verification of employment income, provided the family agrees with the amounts listed in EIV.

The HRA will use an average of the last two quarters of income listed in EIV to determine income from employment. The HRA will provide the family with the information in EIV. The family will be required to sign a self-certification stating that the amount listed in EIV is accurate and representative of current income. If the family disagrees with the amount in EIV, the amount is not reflective of current income, or if less than two quarters are available in EIV, the HRA will use written third-party verification from the source as outlined below.

The HRA will not use this method of verification at new admission since EIV is not available for applicant families or at interim reexamination since the income information in EIV is not current.

Written Third-Party Verification from the Source

Written, third-party verification from the source is also known as "tenant-provided verification." In order to qualify as written-third party verification from the source, the documents must be original or authentic and (generally) dated within 120 days of the date received by the HRA. For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation. Documents may be supplied by the family or received from a third-party source.

Examples of acceptable tenant-provided documents include, but are not limited to pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices. Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.) are an acceptable form of written, third-party verification.

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The HRA is required to obtain, at minimum, two current and consecutive pay stubs when calculating income using third-party verification from the source. For new income sources or when two pay stubs are not available, the HRA should determine income based on the information from a traditional written, third-party verification form or the best available information.

When the family disputes EIV-reported employment income, the HRA uses written third-party verification.

When verification of assets is required, HRAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

HRA Policy

In general, the HRA will use third-party verification from the source in the following circumstances:

At annual reexamination when EIV + self-certification is not used;

For all new admissions; and

For all interim reexaminations.

The HRA will not use this method if the HRA is able to use an income determination from a means-tested federal assistance program or if the HRA uses EIV + self-certification as outlined above.

In general, third-party documents provided by the family or the source must be dated within 120 days of the date received by the HRA. However, for fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation.

The HRA may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible. If the HRA determines that third-party documents provided by the family are not acceptable, the HRA will explain the reason to the family and request additional documentation from the family or will use a lower form of verification such as a written third-party verification form.

When verification of assets held by a banking or financial institution is required, the HRA will obtain one statement that reflects the current balance of the account.

When pay stubs are used, the HRA will require the family to provide the two most current, consecutive pay stubs. At the HRA's discretion, if additional paystubs are needed due to the family's circumstances (e.g., sporadic income, fluctuating schedule, etc.), the HRA may request additional paystubs or a payroll record.

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7-I.G. LEVEL 3 VERIFICATION: WRITTEN, THIRD-PARTY FORM [Notice PIH 2023-27]

This type of verification is a form developed by the HRA and used uniformly for all families when needed to collect information from a third-party source. This is known as "traditional third-party verification." HRAs send an HRA-developed form directly to the third-party source by mail, fax, or email and the source completes the form by hand (in writing or typeset).

The HRA may use this method when higher forms are unavailable or are rejected by the HRA or when the family is unable to provide acceptable verification. The HRA may skip this level of verification and may instead substitute oral third-party verification before moving to self-certification.

HRA Policy

Typically, the HRA will attempt to send written third-party verification forms to the verification source whenever higher forms of verification are unavailable.

However, on a case-by-case basis, the HRA may choose to obtain oral third-party verification without first attempting, and in lieu of, a written-third party verification form.

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7-I.H. LEVEL 2: ORAL THIRD-PARTY VERIFICATION [Notice PIH 2023-27]

For third-party oral verification, HRAs contact sources, identified by UIV techniques or by the family, by telephone or in person.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.

HRAs must document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

The HRA 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.

HRA Policy

In general, the HRA will attempt to obtain written third-party verification via a form from the verification source. If written third-party verification forms are not returned within 10 business days, the HRA will accept self-certification from the family without attempting to obtain oral third-party verification.

However, if the HRA chooses to obtain oral third-party verification, the HRA will document in the file the date and time of the telephone call or visit, the name of the person contacted and the telephone number, as well as the information confirmed.

When Third-Party Verification is Not Required [Notice PIH 2023-27]

Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

HRA Policy

If the family cannot provide original documents, the HRA will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost [VG, p. 18].

Primary Documents

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

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7-I.I. LEVEL 1: NON-THIRD-PARTY VERIFICATION TECHNIQUE: SELF-CERTIFICATION [Notice PIH 2023-27]

Non-third-party verification consists of a signed statement of reported income and/or expenses. This verification method should be used as a last resort when the HRA has not been successful in obtaining information via all other required verification techniques.

Self-certification, however, is an acceptable form of verification when:

- A source of income is fully excluded;
- Net family assets total $50,000 or less and the HRA has adopted a policy to accept self-certification;
- The family declares that they do not have any present ownership in any real property;
- A family states that they have non-recurring income that will not be repeated in the coming year; and/or
- The HRA has adopted a policy to implement streamlined annual recertifications for fixed sources of income.

When the HRA was required to obtain third-party verification but instead relies on self-certification, the family's file must be documented to explain why third-party verification was not available.

HUD does not require that a self-certification be notarized; however, HUD recommends including language on any self-certification to ensure the certifier understands the consequences of knowingly providing false information.

HRA Policy

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the HRA.

The HRA may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to the HRA and must be signed by the family member whose information or status is being verified.

All self-certifications will include the following language:

"I/We, the undersigned, certify under penalty of perjury that the information provided here is true and correct, to the best of my knowledge and recollection. WARNING: Anyone who knowingly submits a false claim or knowingly makes a false statement is subject to criminal and/or civil penalties, including confinement for up to five years, fines, and civil and administrative penalties (18 U.S.C. 287, 1001, 1010, 1012; 31 U.S.C. 3279, 3802)."

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PART II: VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

HRA Policy

The HRA will require families to furnish verification of legal identity for each household member.

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
Certificate of birth, naturalization papers Church issued baptismal certificate Current, valid driver's license or Department of Motor Vehicle identification card U.S. military discharge (DD 214) Current U.S. passport Current government employer identification card with picture	Certificate of birth Adoption papers Custody agreement Health and Human Services ID Certified school records

If a document submitted by a family is illegible for any reason or otherwise questionable, more than one of these documents may be required.

If none of these documents can be provided and at the HRA's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to the HRA and be signed by the family member whose information or status is being verified.

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where the HRA has reason to doubt the identity of a person representing themselves to be a tenant or a member of a tenant family.

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7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and Notice PIH 2023-27]

The family must provide documentation of a valid Social Security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include, existing residents who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

The HRA must accept the following documentation as acceptable evidence of the social security number:

- An original SSN card issued by the Social Security Administration (SSA)
- An original SSA-issued document, which contains the name and SSN of the individual
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual

While HRAs must attempt to gather third-party verification of SSNs prior to admission as listed above, HRAs 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 HRA has exhausted all other attempts to obtain the required documentation. If verifying an individual's SSN using this method, the HRA 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 HRA 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.

HRA Policy

The HRA will verify an individual's SSN in the situations described above using the method described above as a last resort when no other forms of verification of the individual's SSN are available.

The HRA may only reject documentation of an SSN provided by an applicant or resident if the document is not an original document, if the original document has been altered, mutilated, is illegible, or if the document appears to be forged.

HRA Policy

The HRA will explain to the applicant or resident the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to the HRA within 90 days.

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If an applicant family includes a child under 6 years of age who joined the household within the 6 months prior to the date of program admission, an otherwise eligible family may be admitted and must provide documentation of the child's SSN within 90 days. A 90-day extension will be granted if the HRA determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control.

HRA Policy

The HRA will grant one additional 90-day extension if needed for reasons beyond the applicant's control, such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

When a resident requests to add a new household member who is at least 6 years of age, or who is under the age of 6 and has an SSN, the resident must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. The HRA may not add the new household member until such documentation is provided.

When a resident requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the resident must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if the HRA determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control. During the period the HRA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

HRA Policy

The HRA will grant one additional 90-day extension if needed for reasons beyond the resident's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

Social security numbers must be verified only once during continuously assisted occupancy.

HRA Policy

The HRA will verify each disclosed SSN by:

Obtaining documentation from applicants and residents that is acceptable as evidence of social security numbers

Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder

Once the individual's verification status is classified as "verified," the HRA may, at its discretion, remove and destroy copies of documentation accepted as evidence of social security numbers. The retention of the EIV Summary Report or Income Report is adequate documentation of an individual's SSN.

HRA Policy

Once an individual's status is classified as "verified" in HUD's EIV system, the HRA will not remove and destroy copies of documentation accepted as evidence of social security numbers.

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7-II.C. DOCUMENTATION OF AGE

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

HRA Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, the HRA will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

Age must be verified only once during continuously assisted occupancy.

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7-II.D. FAMILY RELATIONSHIPS

Applicants and tenants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

HRA Policy

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

Marriage

HRA Policy

Certification by the head of household is normally sufficient verification. If the HRA has reasonable doubts about a marital relationship, the HRA will require the family to document the marriage with a marriage certificate or other documentation to verify that the couple is married.

In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

Separation or Divorce

HRA Policy

Certification by the head of household is normally sufficient verification. If the HRA has reasonable doubts about a divorce or separation, the HRA will require the family to provide documentation of the divorce or separation with a certified copy of a divorce decree, signed by a court officer; a copy of a court-ordered maintenance or other court record; or other documentation that shows a couple is divorced or separated.

If no court document is available, documentation from a community-based agency will be accepted.

Absence of Adult Member

HRA Policy

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill), if the HRA so requests.

Foster Children and Foster Adults

HRA Policy

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

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7-II.E. VERIFICATION OF STUDENT STATUS

HRA Policy

The HRA requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

The family claims full-time student status for an adult other than the head, spouse, or cohead, or

The family claims a child care deduction to enable a family member to further their education.

7-II.F. DOCUMENTATION OF DISABILITY

The HRA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The HRA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The HRA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the HRA receives a verification document that provides such information, the HRA will not place this information in the tenant file. Under no circumstances will the HRA request a resident's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' Web site at www.os.dhhs.gov.

The HRA may make the following inquiries, provided it makes them of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability
- Inquiry about whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance
- Inquiry about whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

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Family Members Receiving SSA Disability Benefits

Verification of receipt of disability benefits from the Social Security Administration (SSA) is sufficient for verification of disability for the purpose of qualification for waiting list preferences or certain income disallowances and deductions [VG, p. 23].

HRA Policy

For family members claiming disability who receive disability payments from the SSA, the HRA will attempt to obtain information about disability benefits through HUD's Enterprise Income Verification (EIV) system. If documentation is not available through HUD's EIV system, the HRA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member claiming disability status. If a family member is unable to provide the document, the HRA will ask the family to obtain a benefit verification letter either by calling SSA at 1-800-772-1213 or by requesting one from www.ssa.gov. Once the family receives the benefit verification letter, they will be required to provide the letter to the HRA.

Family Members Not Receiving SSA Disability Benefits

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.403, necessary to qualify for waiting list preferences or certain income disallowances and deductions.

HRA Policy

For family members claiming disability who do not receive SSI or other disability payments from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

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

Overview

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. See the Eligibility chapter for detailed discussion of eligibility requirements. This chapter (7) discusses HUD and HRA verification requirements related to citizenship status.

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

U.S. Citizens and Nationals

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

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

HRA Policy

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

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Eligible Immigrants

Documents Required

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

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

HRA Verification [HCV GB, pp 5-3 and 5-7]

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this ACOP. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, the HRA must verify immigration status with the U.S. Citizenship and Immigration Services (USCIS).

The HRA will follow all USCIS protocols for verification of eligible immigration status.

7-II.H. VERIFICATION OF PREFERENCE STATUS

The HRA must verify any preferences claimed by an applicant that determined their placement on the waiting list.

HRA Policy

The HRA offers a preference for working families, described in Section 4-III.B.

The HRA may verify that the family qualifies for the working family preference based on the family's submission of the working member's most recent paycheck stub indicating that the working member works at least 20 hours per week. The paycheck stub must have been issued to the working member within the last thirty days.

The HRA may also seek third party verification from the employer of the head, spouse, cohead or sole member of a family requesting a preference as a working family.

The HRA also offers a preference for victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking as described in Section 4-III.B. To verify that applicants qualify for the preference, the HRA will follow documentation requirements outlined in Section 16-VII.D.

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PART III: VERIFYING INCOME AND ASSETS

Chapter 6 of this ACOP describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any income reported by the family must be verified. This part provides HRA policies that supplement the general verification procedures specified in Part I of this chapter.

HRA Policy

The following policies do not apply when the HRA uses a safe harbor income determination from a means-tested federal assistance program.

7-III.A. EARNED INCOME

Tips

HRA Policy

Unless tip income is included in a family member's W-2 by the employer or in UIV verification sources, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year or tips anticipated to be received in the coming year.

Wages

HRA Policy

When the HRA requires third-party verification of wages, for wages other than tips, the family must provide originals of the two most current, consecutive pay stubs.

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7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

The HRA must obtain written, third-party verification when the income type is not available in EIV. This includes income from self-employment.

HRA Policy

Business owners and self-employed persons will be required to provide:

Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.).

If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

For self-employed individuals who claim they do not have to file tax returns, the HRA will obtain a completed copy of IRS Form 4506-T to verify that no return has been filed.

For those employed in "gig employment" (i.e., those in formal agreements with on-demand companies such as Uber, Lyft, or DoorDash), the HRA will provide a format for the individual to declare their income and expenses. The HRA will also review the printed statement of monthly income from the applicable app for all hours worked and pay received as well as Schedule C of the individual's tax return and the corresponding IRS Form 1099 or 1099k.

The HRA will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations. At any reexamination the HRA may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, the HRA will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months, the HRA will require the family to provide documentation of income and expenses for this period and use that information to project income.

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7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

For policies governing streamlined income determinations for fixed sources of income, please see Chapter 9.

Social Security/SSI Benefits

Verification requirements for Social Security (SS) and Supplemental Security Income (SSI) benefits differ for applicants and participants.

For applicants, since EIV does not contain SS or SSI benefit information, the HRA must ask applicants to provide a copy of their current SS and/or SSI benefit letter (dated within the last 120 calendar days) for each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the HRA should help the applicant request a benefit verification letter from SSA's website at www.ssa.gov or ask the family to request one by calling SSA at 1-800-772-1213. The HRA must obtain the original benefit letter from the applicant, make a photocopy of the document for the file, and return the original to the family.

For participants, the HRA must obtain information through the HUD EIV system and confirm with the participants that the current listed benefit amount is correct.

- If the participant agrees with the amount reported in EIV, the HRA must use the EIV-reported gross benefit amount to calculate annual income from Social Security. HRAs are required to use the EIV-reported SS and SSI benefit amounts when calculating income unless the tenant disputes the EIV-reported amount. For example, an SSA benefit letter may list the monthly benefit amount as $450.80 and EIV displays the amount as $450.00. The HRA must use the EIV-reported amount unless the participant disputes the amount.
- If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in EIV, the HRA must request a current SSA benefit verification letter (dated within the last 120 calendar days) from each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the HRA should help the participant request a benefit verification letter from SSA's website at www.ssa.gov or ask the family to request one by calling SSA at 1-800-772-1213. The HRA must obtain the original benefit letter from the participant, make a photocopy of the document for the file, and return the original to the family.
- Photocopies of social security checks or bank statements are not acceptable forms of verification for SS/SSI benefits.

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7-III.D. ALIMONY OR CHILD SUPPORT [Notice PIH 2023-27]

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

HRA Policy

The methods the HRA will use to verify alimony and child support payments differ depending on whether the family declares that it receives regular payments.

If the family declares that it ***receives regular payments***, verification will be obtained in the following order of priority:

Copies of the receipts and/or payment stubs for the 12 months prior to HRA request

Third-party verification form from the state or local child support enforcement agency

Third-party verification form from the person paying the support

Family's self-certification of amount received

Note: Families are not required to undertake independent enforcement action.

7-III.E. NONRECURRING INCOME [Notice PIH 2023-27]

Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. HRAs may accept a self-certification from the family stating that the income will not be repeated in the coming year.

HRA Policy

The HRA will accept self-certification from the family stating that income will not be repeated in the coming year. However, the HRA may choose, on a case-by-case basis, to require third-party verification that income sources will not be repeated in the coming year.

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7-III.F. ASSETS AND INCOME FROM ASSETS

Net Family Assets [24 CFR 5.603]

At admission and reexam, for families with net assets totaling $50,000 or less (adjusted annually), the HRA may, but is not required to, accept the family's self-certification that the family's assets do not exceed $50,000 without taking any additional steps to verify the accuracy of the declaration. The declaration must include the amount of income the family expects to receive from assets which must be included in the family's income. This includes declaring income from checking and savings accounts which, although excluded from the calculation of net family assets (because the combined value of non-necessary personal property does not exceed $50,000), may generate asset income. HRAs must clarify during the self-certification process which assets are included/excluded from net family assets.

For HRAs that choose to accept self-certification, the HRA is required to obtain third-party verification of all assets, regardless of the amount, at least once every three years.

HRAs who choose not to accept self-certifications of assets must verify all families' assets on an annual basis.

When net family assets have a total value over $50,000, the HRA may not rely on the family's self-certification. Third-party verification of assets is required when net family assets exceed $50,000, adjusted annually by HUD.

When verification of assets is required, HRAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

HRA Policy

For families with net assets totaling $50,000 or less, the HRA will accept the family's self-certification of the value of family assets and anticipated asset income. The family's declaration must show each asset and the amount of income expected from that asset. All family members 18 years of age and older must sign the family's declaration. The HRA reserves the right to require additional verification in situations where the accuracy of the declaration is in question. Any income the family expects to receive from assets will be included in the family's annual income. The family will be required to provide third-party verification of net family assets every three years.

When verification is required, in determining the value of checking or savings accounts, the HRA will use the current balance.

In determining the anticipated income from an interest-bearing checking or savings account when verification is required and the rate of return is known, the HRA will multiply the current balance of the account by the current rate of interest paid on the account. If a checking account does not bear interest, the anticipated income from the account is zero.

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Self-Certification of Real Property Ownership [24 CFR 5.618(b)(2)]

The HRA must determine whether a family has present ownership in real property that is suitable for occupancy for purposes of determining whether the family is compliant with the asset limitation described in Chapters 3 and 13. At admission and reexam, the HRA may accept a self-certification from the family that the family does not have any present ownership in any real property that is suitable for occupancy. If the family declares they have present ownership in real property, the HRA must obtain third-party verification.

HRA Policy

Both at admission and reexam, the HRA will accept self-certification from the family that the family does not have any present ownership in any real property. The certification will state that the family does not have any present ownership interest in any real property and must be signed by all family members 18 years of age and older. The HRA reserves the right to require additional verification in situations where the accuracy of the declaration is in question.

If the family declares they have a present ownership in real property, the HRA will obtain third-party verification of the following factors: whether the family has the legal right to reside in the property; whether the family has effective legal authority to sell the property; and whether the property is suitable for occupancy by the family as a residence. However, in cases where a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, the HRA will comply with confidentiality requirements under 24 CFR 5.2007 and will accept a self-certification.

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7-III.G. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. HUD permits HRAs to accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28]. The HRA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

HRA Policy

The HRA will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

The HRA will verify the value of assets disposed of only if:

The HRA does not already have a reasonable estimation of its value from previously collected information, or

The amount reported by the family in the certification appears obviously in error.

Example 1: An elderly resident reported a $10,000 certificate of deposit at the last annual reexamination and the HRA verified this amount. Now the person reports that she has given this $10,000 to her son. The HRA has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately $5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the HRA will verify the value of this asset.

7-III.H. NET INCOME FROM RENTAL PROPERTY

HRA Policy

The family must provide:

A current executed lease for the property that shows the rental amount or certification from the current tenant

A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income).

If schedule E was not prepared, the HRA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

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7-III.I. FEDERAL TAX REFUNDS OR REFUNDABLE TAX CREDITS [Notice PIH 2023-27]

HRAs are not required to verify the amount of the family's federal tax refund or refundable tax credit(s) if the family's net assets are equal to or below $50,000 (adjusted annually for inflation), even in years when full verification of assets is required or if the HRA does not accept self-certification of assets. HRAs must verify the amount of the family's federal tax refund or refundable tax credits if the family's net assets are greater than $50,000.

7-III.J. RETIREMENT ACCOUNTS

HRA Policy

The HRA will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

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7-III.K. INCOME FROM EXCLUDED SOURCES [Notice PIH 2023-27]

A detailed discussion of excluded income is provided in Chapter 6, Part I.

HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

For fully excluded income, the HRA is **not** required to verify the income using third-party verification, document why third-party verification is not available, or report the income on the 50058. *Fully excluded income* is defined as income where the entire amount qualifies to be excluded from the annual income determination in accordance with 24 CFR 5.609(b) and any *Federal Register* notice on mandatory exclusions issued by HUD (for example, food stamps, earned income of a minor, or foster care funds).

HRAs 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, HRAs have the option of requiring additional verification.

For partially excluded income, the HRA **is** required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full-time student).

HRA Policy

The HRA will accept the family's self-certification as verification of fully excluded income. The HRA may request additional documentation if necessary to document the income source.

The HRA will verify the source and amount of partially excluded income as described in Part 1 of this chapter.

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7-III.L. ZERO INCOME REVIEWS [Notice PIH 2023-27]

A *zero income review* is an assessment, sometimes periodic, performed by the HRA of the income of a family who claims that they do not receive income from any source, including from assets. During such reviews, it is common for HRAs to request that families complete and sign a worksheet explaining how they pay for the household's expenses. HUD does not require HRAs to conduct periodic zero income reviews. In calculating annual income, HRAs must not assign monetary value to nonmonetary in-kind donations from a food bank or similar organization received by the family [24 CFR 5.609(b)(24)(vi)]. HRAs that perform zero income reviews must update local discretionary policies, procedures, and forms. Families who begin receiving income which does not trigger an interim reexamination should no longer be considered zero income even though the family's income is not reflected on the Form HUD-50058.

HRA Policy

The HRA will check UIV sources and/or may request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SS, SSI, earned income, child support, etc. are not being received by families claiming to have zero annual income.

The HRA will also require that each family member who claims zero income status complete a zero income form. If any sources of income are identified on the form, the HRA will verify the income in accordance with the policies in this chapter prior to including the income in the family's annual income.

The HRA will only conduct interims in accordance with HRA policy in Chapter 9.

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

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

HRA Policy

The HRA will request written third-party verification of both the source and the amount of student financial assistance. Family-provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.

In addition, unless the student's only source of assistance is assistance under Title IV of the HEA, the HRA will request written verification of the cost of the student's tuition, books, supplies, room and board, and other required fees and charges to the student from the educational institution.

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

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PART IV: VERIFYING MANDATORY DEDUCTIONS

7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/disabled family deductions require only that the HRA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

Dependent Deduction

See Chapter 6 for a full discussion of this deduction. The HRA will verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse or cohead of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

Elderly/Disabled Family Deduction

See the Eligibility chapter for a definition of elderly and disabled families and Chapter 6 for a discussion of the deduction. The HRA will verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

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7-IV.B. HEALTH AND MEDICAL CARE EXPENSE DEDUCTION

Policies related to medical expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I.

The HRA must comply with the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191, 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed health and medical care expenses. The HRA may not request documentation beyond what is sufficient to determine anticipated health and medical care costs. Before placing bills and documentation in the tenant file, the HRA must redact all personally identifiable information [FR Notice 2/14/23].

Amount of Expense

HRA Policy

Medical expenses will be verified through:

Written third-party documents provided by the family, such as HRArmacy printouts or receipts.

The HRA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The HRA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

Written third-party verification forms if the family is unable to provide acceptable documentation.

If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months.

Before placing bills and documentation in the tenant file, the HRA will redact all personally identifiable information.

If the HRA receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the person's disability, the HRA will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to be disposed of, the HRA will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will HRA include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

In addition, the HRA must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified health and medical care expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

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Eligible Household

The health and medical care expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62 or a person with disabilities. The HRA will verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter, and as described in Chapter 7 (7-IV.A) of this plan.

Qualified Expenses

To be eligible for the health and medical care expense deduction, the costs must qualify as medical expenses. See Chapter 6 for the HRA's policy on what counts as a medical expense.

Unreimbursed Expenses

To be eligible for the health and medical care expense deduction, the costs must not be reimbursed by another source.

HRA Policy

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source. If expenses are verified through a third party, the third party must certify that the expenses are not paid or reimbursed from any other source.

Expenses Incurred in Past Years

HRA Policy

When anticipated costs are related to on-going payment of medical bills incurred in past years, the HRA will verify:

The anticipated repayment schedule

The amounts paid in the past, and

Whether the amounts to be repaid have been deducted from the family's annual income in past years

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7-IV.C. DISABILITY ASSISTANCE EXPENSES

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

The HRA must comply with the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191, 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed auxiliary apparatus or attendance care costs. The HRA may not request documentation beyond what is sufficient to determine anticipated reasonable attendant care and auxiliary apparatus costs. Before placing bills and documentation in the tenant file, the HRA must redact all personally identifiable information [FR Notice 2/14/23].

Amount of Expense

Attendant Care

HRA Policy

Expenses for attendant care will be verified through:

- Written third-party documents provided by the family, such as receipts or cancelled checks.
- Third-party verification form signed by the provider, if family-provided documents are not available.
- If third-party verification is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months.

Before placing bills and documentation in the tenant file, the HRA will redact all personally identifiable information.

If the HRA receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the person's disability, the HRA will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to be disposed of, the HRA will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will HRA include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

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Auxiliary Apparatus

HRA Policy

Expenses for auxiliary apparatus will be verified through:

Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.

Third-party verification form signed by the provider, if family-provided documents are not available.

If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months.

In addition, the HRA must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- The expense permits a family member, or members, to work (as described in Chapter 6.).
- The expense is not reimbursed from another source (as described in Chapter 6.).

Family Member is a Person with Disabilities

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The HRA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

Family Member(s) Permitted to Work

The HRA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

HRA Policy

The HRA will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.). This documentation may be provided by the family.

If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

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Unreimbursed Expenses

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

HRA Policy

The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

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7-IV.D. CHILD CARE EXPENSES

Policies related to child care expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I. In addition, the HRA must verify that:

- The child is eligible for care (12 or younger).
- The costs claimed are not reimbursed.
- The costs enable a family member to work, actively seek work, or further their education.
- The costs are for an allowable type of child care.
- The costs are reasonable.

Eligible Child

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. The HRA will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

Unreimbursed Expense

To be eligible for the child care deduction, the costs must not be reimbursed by another source.

HRA Policy

The family and the care provider will be required to certify that the child care expenses are not paid by or reimbursed to the family from any source.

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Pursuing an Eligible Activity

The HRA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

HRA Policy

Information to be Gathered

The HRA will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

Whenever possible the HRA will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases the HRA will request family-provided verification from the agency of the member's job seeking efforts to date and require the family to submit to the HRA any reports provided to the other agency.

In the event third-party verification is not available, the HRA will provide the family with a form on which the family member must record job search efforts. The HRA will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

The HRA will request third-party documentation to verify that the person permitted to further their education by the child care is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.

Gainful Employment

The HRA will seek third-party verification of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

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Allowable Type of Child Care

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

HRA Policy

The HRA will verify that the type of child care selected by the family is allowable, as described in Chapter 6.

The HRA will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The HRA will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

Reasonableness of Expenses

Only reasonable child care costs can be deducted.

HRA Policy

The actual costs the family incurs will be compared with the HRA's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, the HRA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

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Exhibit 7-1: Summary of Documentation Requirements for Noncitizens [HCV GB, pp. 5-9 and 5-10)

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

Elderly Noncitizens

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

All other Noncitizens

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

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

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

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

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Chapter 8

LEASING AND INSPECTIONS

[24 CFR 5, Subpart G; 24 CFR 966, Subpart A]

INTRODUCTION

Public housing leases are the contractual basis of the legal relationship between the HRA and the tenant. All units must be occupied pursuant to a dwelling lease agreement that complies with HUD regulations.

HUD regulations require the HRA to inspect each dwelling unit prior to move-in, at move-out, and annually during the period of occupancy. In addition, the HRA may conduct additional inspections in accordance with HRA policy.

This chapter is divided into two parts as follows:

Part I: Leasing. This part describes pre-leasing activities and the HRA's policies pertaining to lease execution, lease modification, and payments under the lease.

Part II: Inspections. This part describes the HRA's policies for inspecting dwelling units and notifying families of HUD REAC NSPIRE inspections.

PART I: LEASING

8-I.A. OVERVIEW

An eligible family may occupy a public housing dwelling unit under the terms of a lease. The lease must meet all regulatory requirements and must also comply with applicable state and local laws and codes.

The term of the lease must be for a period of 12 months. The lease must be renewed automatically for another 12-month term, except that the HRA may not renew the lease if the family has violated the community service requirement and if the family is determined to be over income for 24 consecutive months [24 CFR 966.4(a)(2)].

HRAs must adopt smoke-free policies, which HUD required to be implemented no later than July 30, 2018. The policy is attached as Exhibit 8-1.

Part I of this chapter contains regulatory information on leasing, where applicable, as well as the HRA's leasing policies.

For policies on lease requirements for families whose incomes have exceeded the over-income limit for 24 consecutive months, see 13-III.C., Over-Income Families.

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8-I.B. LEASE ORIENTATION

HRA Policy

After unit acceptance but prior to occupancy, an HRA representative will conduct a lease orientation with the family. The head of household or spouse is required to attend.

Orientation Agenda

HRA Policy

When families attend the lease orientation, they will be provided with:

A copy of the lease

A copy of the HRA's grievance procedure

A copy of the house rules

A copy of the HRA's schedule of maintenance charges

A copy of "Is Fraud Worth It?" (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse

A copy of "What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12

A copy of the form HUD-5380, VAWA Notice of Occupancy Rights

A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

A copy of the HRA's smoke free policy

A notice that includes the procedures for requesting relief and the HRA's criteria for granting requests for relief for excess utility surcharges

The HUD pamphlet on lead-based paint entitled, "Protect Your Family from Lead in Your Home."

Topics to be discussed and explained to all families include:

Applicable deposits and all other charges

Review and explanation of lease provisions

Unit maintenance requests and work orders

The HRA's interim reporting requirements

Review and explanation of occupancy forms

Community service requirements

Family choice of rent

VAWA protections

Smoke-free policies

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8-I.C. EXECUTION OF LEASE

The lease must be executed by the tenant and the HRA, except for automatic renewals of a lease [24 CFR 966.4(a)(3)].

A lease is executed at the time of admission for all new residents. A new lease is also executed at the time of transfer from one HRA unit to another.

The lease must state the composition of the household as approved by the HRA (family members and any HRA-approved live-in aide) [24 CFR 966.4(a)(1)(v)]. See Section 8-I.D. for policies regarding changes in family composition during the lease term.

HRA Policy

The head of household, spouse or cohead, and all other adult members of the household will be required to sign the public housing lease prior to admission. An appointment will be scheduled for the parties to execute the lease. The head of household will be provided a copy of the executed lease and the HRA will retain a copy in the resident's file.

Files for households that include a live-in aide will contain file documentation signed by the live-in aide, that the live-in aide is not a party to the lease and is not entitled to HRA assistance. The live-in aide is only approved to live in the unit while serving as the care attendant for the family member who requires the care.

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8-I.D. MODIFICATIONS TO THE LEASE

The lease may be modified at any time by written agreement of the tenant and the HRA [24 CFR 966.4(a)(3)].

Modifications to the Lease Form

The HRA may modify its lease from time to time. However, the HRA must give residents at least thirty (30) days advance notice of the proposed changes and an opportunity to comment on the changes. The HRA must also consider any comments before formally adopting a new lease [24 CFR 966.3].

After proposed changes have been incorporated into the lease and approved by the Board, each family must be notified at least 60 days in advance of the effective date of the new lease or lease revision. A resident's refusal to accept permissible and reasonable lease modifications that are made in accordance with HUD requirements, or are required by HUD, is grounds for termination of tenancy [24 CFR 966.4(l)(2)(iii)(E)].

HRA Policy

The family will have 30 days to accept the revised lease. If the family does not accept the offer of the revised lease within that 30 day timeframe, the family's tenancy will be terminated for other good cause in accordance with the policies in Chapter 13.

Schedules of special charges and rules and regulations are subject to modification or revision. Because these schedules are incorporated into the lease by reference, residents and resident organizations must be provided at least thirty days written notice of the reason(s) for any proposed modifications or revisions, and must be given an opportunity to present written comments. The notice must be delivered directly or mailed to each tenant; or posted in at least three conspicuous places within each structure or building in which the affected dwelling units are located, as well as in a conspicuous place at the project office, if any, or if none, a similar central business location within the project. Comments must be taken into consideration before any proposed modifications or revisions become effective [24 CFR 966.5].

After the proposed revisions become effective they must be publicly posted in a conspicuous manner in the project office and must be furnished to applicants and tenants on request [24 CFR 966.5].

HRA Policy

When the HRA proposes to modify or revise schedules of special charges or rules and regulations, the HRA will post a copy of the notice in the central office, and will mail a copy of the notice to each resident family. Documentation of proper notice will be included in each resident file.

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Other Modifications

HRA Policy

The lease will be amended to reflect all changes in family composition.

If, for any reason, any member of the household ceases to reside in the unit, the lease will be amended by drawing a line through the person's name. The head of household and HRA will be required to initial and date the change.

If a new household member is approved by the HRA to reside in the unit, the person's name and birth date will be added to the lease. The head of household and HRA will be required to initial and date the change. If the new member of the household is an adult, they will also be required to sign and date the lease.

Policies governing when and how changes in family composition must be reported are contained in Chapter 9, Reexaminations.

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8-I.E. SECURITY DEPOSITS [24 CFR 966.4(b)(5)]

At the option of the HRA, the lease may require security deposits. The amount of the security deposit cannot exceed one month's rent or a reasonable fixed amount as determined by the HRA. The HRA may allow for gradual accumulation of the security deposit by the family, or the family may be required to pay the security deposit in full prior to occupancy. Subject to applicable laws, interest earned on security deposits may be refunded to the tenant after vacating the unit or used for tenant services or activities.

HRA Policy

Residents must pay a security deposit to the HRA at the time of admission. The amount of the security deposit will be equal to the family's total tenant payment at the time of move-in and must be paid in full prior to occupancy.

The HRA will hold the security deposit for the period the family occupies the unit. The HRA will not use the security deposit for rent or other charges while the resident is living in the unit.

Within 21 days of move-out, the HRA will refund to the resident the amount of the security deposit (including interest earned on the security deposit), less any amount needed to pay the cost of unpaid rent, damages listed on the move-out inspection report that exceed normal wear and tear, and other charges due under the lease.

The HRA will provide the resident with a written list of any charges against the security deposit within 10 business days of the move-out inspection. If the resident disagrees with the amount charged, the HRA will provide a meeting to discuss the charges.

If the resident transfers to another unit, the HRA will transfer the security deposit to the new unit. The tenant will be billed for any maintenance or other charges due for the "old" unit.

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8-I.F. PAYMENTS UNDER THE LEASE

Rent Payments [24 CFR 966.4(b)(1)]

Families must pay the amount of the monthly tenant rent determined by the HRA in accordance with HUD regulations and other requirements. The amount of the tenant rent is subject to change in accordance with HUD requirements.

The lease must specify the initial amount of the tenant rent at the beginning of the initial lease term, and the HRA must give written notice stating any change in the amount of tenant rent and when the change is effective.

HRA Policy

The tenant rent is due and payable at the HRA-designated location on the first of every month. If the first falls on a weekend or holiday, the rent is due and payable on the first business day thereafter.

If a family's tenant rent changes, the HRA will notify the family of the new amount and the effective date by sending a "Notice of Rent Adjustment" which will become an attachment to the lease.

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Late Fees and Nonpayment [24 CFR 966.4(b)(3); Notice PIH 2021-29]

At the option of the HRA, the lease may provide for payment of penalties when the family is late in paying tenant rent [24 CFR 966.4(b)(3)].

The lease must provide that late payment fees are not due and collectible until two weeks after the HRA gives written notice of the charges. The written notice is considered an adverse action and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right for a hearing under the HRA grievance procedures. The HRA must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

HRA Policy

If the family fails to pay their rent by the tenth day of the month, and the HRA has not agreed to accept payment at a later date, a 30-day Notice to Vacate (during nationwide emergency orders) or a 14-day Notice to Vacate (upon expiration of nationwide emergency orders) will be issued to the resident for failure to pay rent, demanding payment in full or the surrender of the premises.

In addition, if the resident fails to make payment by the end of office hours on the tenth day of the month, a late fee of five percent of the tenant's monthly rent amount or $25.00 (whichever greater) will be charged. Notices of late fees will be in accordance with requirements regarding notices of adverse action. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the HRA may not take action for nonpayment of the fee until the conclusion of the grievance process. If the resident can document financial hardship, the late fee may be waived on a case-by-case basis.

When a check is returned for insufficient funds or is written on a closed account, the rent will be considered unpaid and a returned check fee of $25.00 will be charged to the family. The fee will be due and payable 14 days after billing.

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Excess Utility Charges

If the HRA charges the tenant for consumption of excess utilities, the lease must state the basis for the determination of such charges. The imposition of charges for consumption of excess utilities is permissible only if the charges are determined by an individual check meter servicing the leased unit or result from the use of major tenant-supplied appliances [24 CFR 966.4(b)(2)].

Schedules of special charges for utilities that are required to be incorporated in the lease by reference must be publicly posted in a conspicuous manner in the development office and must be furnished to applicants and tenants on request [24 CFR 966.5].

The lease must provide that charges for excess utility consumption are not due and collectible until two weeks after the HRA gives written notice of the charges. The written notice is considered an adverse action and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right to a hearing under the HRA grievance procedures. The HRA must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

HRA Policy

When applicable, families will be charged for excess utility usage according to the HRA's current posted schedule. Notices of excess utility charges will be mailed monthly and will be in accordance with requirements regarding notices of adverse actions. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the HRA may not take action for nonpayment of the charges until the conclusion of the grievance process.

Nonpayment of excess utility charges is a violation of the lease and is grounds for eviction.

The HRA may grant requests for relief from surcharges from excess utility consumption of HRA-furnished utilities as a reasonable accommodation where the HRA deems an exception is appropriate to meet the needs of elderly, ill, or disabled residents. In determining whether to grant this request, the HRA will consider special factors affecting utility usage that are not within the control of the resident, such as the need for medical equipment. Residents may request relief in accordance with Section 2-II.C. of this ACOP. The HRA will process such requests in accordance with Section 2-II.E. of this ACOP.

Notice of the availability of procedures for requesting relief (including the HRA representative with whom initial contact may be made by the resident) and the HRA's criteria for granting requests, will be included in each notice to residents of changes in utility allowances or surcharges as well as to new residents as part of the lease orientation.

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Maintenance and Damage Charges

If the HRA charges the tenant for maintenance and repair beyond normal wear and tear, the lease must state the basis for the determination of such charges [24 CFR 966.4(b)(2)].

Schedules of special charges for services and repairs which are required to be incorporated in the lease by reference must be publicly posted in a conspicuous manner in the development office and must be furnished to applicants and tenants on request [24 CFR 966.5].

The lease must provide that charges for maintenance and repair beyond normal wear and tear are not due and collectible until two weeks after the HRA gives written notice of the charges. The written notice is considered an adverse action and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right for a hearing under the HRA grievance procedures. The HRA must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

HRA Policy

When applicable, families will be charged for maintenance and/or damages according to the HRA's current schedule. Work that is not covered in the schedule will be charged based on the actual cost of labor and materials to make needed repairs (including overtime, if applicable).

Notices of maintenance and damage charges will be mailed monthly and will be in accordance with requirements regarding notices of adverse actions. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the HRA may not take action for nonpayment of the charges until the conclusion of the grievance process.

Nonpayment of maintenance and damage charges is a violation of the lease and is grounds for eviction.

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PART II: INSPECTIONS

8-II.A. OVERVIEW

The HRA is obligated to maintain safe and habitable dwelling units and to make necessary repairs to dwelling units [24 CFR 966.4(e)]. The National Standards for the Inspection Physical Inspection of Real Estate (NSPIRE) are the standard under which HUD housing units, including those under the public housing program, are inspected. NSPIRE ensures that residents of public housing live in safe, habitable dwellings, and the items and components located inside, outside, and within the units are functionally adequate, operable, and free of health and safety hazards [24 CFR 5.703(a)]. Further, units must comply with state and local code requirements (such as fire, mechanical, plumbing, carbon monoxide, property maintenance, and residential code) [24 CFR 5.703(f)] as well as with all requirements related to the evaluation and control of lead-based paint hazards [24 CFR 5.703(e)(2)].

Under NSPIRE, public housing units are subject to three types of inspections: annual self-inspections, NSPIRE Inspections (which are used to assess and score the HRA under the Public Housing Assessment System (HRAS)), and NSPIRE Plus Inspections (which are triggered by poor property conditions). HUD regulations also require the HRA to inspect each public housing unit prior to move-in and at move-out. The HRA may require additional inspections, in accordance with HRA policy. This part contains the HRA's policies governing inspections by the HRA and HUD, notification of unit entry, and inspection repair timelines. This section discusses inspections conducted by the HRA (including annual self-inspections) and inspections conducted by HUD REAC.

8-II.B. HRA-CONDUCTED INSPECTIONS

The HRA is obligated to maintain dwelling units and the project in safe and habitable condition and to make necessary repairs to dwelling units [24 CFR 966.4(e)].

Types of HRA-Conducted Inspections

Move-In Inspections **[24 CFR 966.4(i)]**

The lease must require the HRA and the family to inspect the dwelling unit prior to occupancy in order to determine the condition of the unit and equipment in the unit. A copy of the initial inspection, signed by the HRA and the tenant, must be provided to the tenant and retained in the resident file.

HRA Policy

Any adult family member may attend the initial inspection and sign the inspection form for the head of household.

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Move-Out Inspections [24 CFR 966.4(i)]

The HRA must inspect the unit at the time the resident vacates the unit and must allow the resident to participate in the inspection if they wish, unless the tenant vacates without notice to the HRA. The HRA must provide to the tenant a statement of any charges to be made for maintenance and damage beyond normal wear and tear.

The difference between the condition of the unit at move-in and move-out establishes the basis for any charges against the security deposit so long as the work needed exceeds that for normal wear and tear.

HRA Policy

When applicable, the HRA will provide the tenant with a statement of charges to be made for maintenance and damage beyond normal wear and tear, within 10 business days of conducting the move-out inspection.

Self-Inspections [24 CFR 5.707]

Annually all HRAs are required to self-inspect their properties, including all units, to ensure units are maintained in accordance with NSPIRE standards in 24 CFR 5.703. As part of the self-inspection process, HRAs must ensure that deficiencies previously cited and repaired as a result of an NSPIRE inspection have not subsequently failed.

The HRA must maintain the results of self-inspections for three years and must provide the results to HUD upon request.

Quality Control Inspections

The purpose of quality control inspections is to assure that all defects were identified in the original inspection, and that repairs were completed and within an acceptable time frame.

HRA Policy

Supervisory quality control inspections will be conducted in accordance with the HRA's maintenance plan.

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Special Inspections

HRA Policy

HRA staff may conduct a special inspection for any of the following reasons:

Housekeeping

Unit condition

Suspected lease violation

Preventive maintenance

Routine maintenance

There is reasonable cause to believe an emergency exists

Other Inspections

HRA Policy

Building exteriors, grounds, common areas and systems will be inspected according to the HRA's maintenance plan.

Notice of Entry

Non-emergency Entries [24 CFR 966.4(j)(1)]

The HRA may enter the unit, with reasonable advance notification to perform routine inspections and maintenance, make improvements and repairs, or to show the unit for re-leasing. A written statement specifying the purpose of the HRA entry delivered to the dwelling unit at least two days before such entry is considered reasonable advance notification.

HRA Policy

The HRA will notify the resident in writing at least 48 hours prior to any non-emergency inspection.

For regular annual self-inspections, the family will receive at least two weeks written notice of the inspection to allow the family to prepare the unit for the inspection.

Entry for repairs requested by the family will not require prior notice. Resident-requested repairs presume permission for the HRA to enter the unit.

Except for emergencies, management will not enter the dwelling unit to perform inspections where a pet resides unless accompanied for the entire duration of the inspection by the pet owner or responsible person designated by the pet owner in accordance with the pet policies in Section 10-II.D.

Emergency Entries [24 CFR 966.4(j)(2)]

The HRA may enter the dwelling unit at any time without advance notice when there is reasonable cause to believe that an emergency exists. If no adult household member is present at the time of an emergency entry, the HRA must leave a written statement showing the date, time and purpose of the entry prior to leaving the dwelling unit.

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Scheduling of HRA-Conducted Inspections

HRA Policy

Inspections will be conducted during business hours. If a family needs to reschedule an inspection, they must notify the HRA at least 24 hours prior to the scheduled inspection. The HRA will reschedule the inspection no more than once unless the resident has a verifiable good cause to delay the inspection. The HRA may request verification of such cause.

Attendance at Inspections

Residents are required to be present for move-in inspections [24 CFR 966.4(i)]. There is no such requirement for other types of inspections.

HRA Policy

While the resident is required to be present for move-in inspections, the resident is not required to be present for other types of inspections. The resident may attend the inspection if they wish.

If no one is at home, the inspector will enter the unit, conduct the inspection and leave a copy of the inspection report in the unit.

Repairs

Correction timeframes differ depending on whether repairs are considered emergency or non-emergency repairs.

Emergency Repairs [24 CFR 966.4(h)]

If the unit is damaged to the extent that conditions are created which are hazardous to the life, health, or safety of the occupants, the tenant must immediately notify the HRA of the damage, and the HRA must make repairs within a reasonable time frame. Under NSPIRE, the HRA must correct all Life-Threatening and Severe deficiencies within 24 hours.

If the damage was caused by a household member or guest, the HRA must charge the family for the reasonable cost of repairs. The HRA may also take lease enforcement action against the family.

If the HRA cannot make repairs quickly, the HRA must offer the family standard alternative accommodations. If the HRA can neither repair the defect within a reasonable time frame nor offer alternative housing, rent shall be abated in proportion to the seriousness of the damage and loss in value as a dwelling. Rent shall not be abated if the damage was caused by a household member or guest, or if the resident rejects the alternative accommodations.

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Non-emergency Repairs

HRA Policy

The HRA will correct deficiencies resulting in a non-emergency work order identified during an HRA conducted inspection within 15 business days of the inspection date. If the HRA is unable to make repairs within that period due to circumstances beyond the HRA's control (e.g., required parts or services are not available, weather conditions, etc.) the HRA will notify the family of an estimated date of completion.

The family must allow the HRA access to the unit to make repairs.

Except for emergencies, management will not enter the dwelling unit to perform repairs where a pet resides unless accompanied for the entire duration of the repair by the pet owner or responsible person designated by the pet owner in accordance with the pet policies in Section 10-II.D.

Resident-Caused Damages

HRA Policy

Damages to the unit beyond wear and tear will be billed to the tenant in accordance with the policies in 8-I.F., Maintenance and Damage Charges.

Repeated or excessive damages to the unit beyond normal wear and tear will be considered a serious or repeated violation of the lease.

Housekeeping

HRA Policy

Residents whose housekeeping habits pose a non-emergency health or safety risk, encourage insect or rodent infestation, or cause damage to the unit are in violation of the lease. In these instances, the HRA will provide proper notice of a lease violation.

A reinspection will be conducted within 30 days to confirm that the resident has complied with the requirement to abate the problem. Failure to abate the problem or allow for a reinspection is considered a violation of the lease and may result in termination of tenancy in accordance with Chapter 13.

Notices of lease violation will also be issued to residents who purposely disengage the unit's smoke detector and/or carbon monoxide alarm. Only one warning will be given. A second incidence will result in lease termination.

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8-II.C. NSPIRE INSPECTIONS [24 CFR 5.705(c); Notice PIH 2023-16]

During an NSPIRE inspection, REAC inspectors will inspect areas and associated items or components that are listed in the regulations as affirmative requirements and those included within the NSPIRE standards. For most properties, the frequency of NSPIRE inspections is determined by the date of the prior inspection and the score received.

Notice to Residents [Notice PIH 2023-16]

The HRA must provide notice to all residents as described in 24 CFR 5.711(h) and the lease.

HRA Policy

The HRA will provide all residents with at least seven days' notice of an NSPIRE inspection. Notice will be provided through multiple communication methods, including by posted notice on each resident's door and through email where applicable. All materials, notices, and communications to families regarding the inspection will be clearly communicated and provided in a manner that is effective for persons with hearing, visual, and other communication-related disabilities consistent with Section 504 of the Rehabilitation Act (Section 504) and HUD's Section 504 regulation, and Titles II or III of the Americans with Disabilities Act (ADA) and implementing regulations.

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24-Hour Corrections [24 CFR 5.711(c); Notice PIH 2023-16]

At the conclusion of the NSPIRE inspection, or at the end of the day on multi-day inspections, HUD provides the HRA with a list of Life-Threatening and Severe deficiencies. The HRA must correct all Life-Threatening and Severe deficiencies within 24 hours, with certification of correction submitted to HUD within two business days of receipt of notification of the deficiency.

If permanent repair will take longer than the allowable time in the relevant standard for the deficiency, the HRA must provide HUD with a timeframe for completing permanent repairs and submit evidence that the repair is in progress. Any extension to the allowable time for rectifying the deficiency is allowed only upon HUD approval for good cause.

HRA Policy

The HRA will correct all Life-Threatening and Severe deficiencies within 24 hours. Correcting the deficiency means the HRA will resolve or sufficiently address the deficiency in a manner that it no longer poses a severe health or safety risk to residents or the hazard is blocked until permanent repairs can be completed. A correction could include controlling or blocking access to the hazard by performing a temporary relocation of the resident while repairs are made.

While the HRA will complete all repairs expeditiously, if a permanent repair is not possible within 24-hours, the HRA will correct the deficiency by performing an interim repair to remove the health and safety hazard. If the correction is temporary or professional services or materials are unavailable within 24 hours, the HRA will provide a target date for permanent correction. Such interim repairs will be fully completed within a reasonable timeframe approved by HUD.

The family must allow the HRA access to the unit to make repairs.

Non-emergency Repairs

Under NSPIRE, the HRA must correct Moderate deficiencies within 30 days and Low deficiencies within 60 days, or as otherwise provided in the NSPIRE standards. Repairs should be permanent fixes, unless otherwise approved by HUD in writing. HUD may also prescribe timelines in Corrective Action Plans as defined in 24 CFR 902.3 or Corrective Action Agreements as described in 24 CFR 902.105.

HRA Policy

If the HRA is unable to make repairs within the periods identified in the NSPIRE standards due to circumstances beyond the HRA's control (e.g., required parts or services are not available, weather conditions, etc.), the HRA will provide HUD with a timeframe for completing permanent repairs and obtain HUD approval. The HRA will also notify the family of an estimated date of completion.

The family must allow the HRA access to the unit to make repairs.

Except for emergencies, management will not enter the dwelling unit to perform repairs where a pet resides unless accompanied for the entire duration of the repair by the pet owner or responsible person designated by the pet owner in accordance with the pet policies in Section 10-II.D.

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EXHIBIT 8-1: SMOKE-FREE POLICY

In accordance with HUD regulations, the Housing Authority has adopted these smoke-free policies. The policies are effective as of Board approval date.

Due to the increased risk of fire, increased maintenance costs, and the known health effects of secondhand smoke, smoking is prohibited in all living units and interior areas, including but not limited to hallways, rental and administrative offices, community centers, day care centers, laundry centers, and similar structures. Smoking is also prohibited in outdoor areas within 25 feet from public housing and administrative office buildings.

This policy applies to all employees, residents, household members, guests, and service persons. Residents are responsible for ensuring that household members and guests comply with this rule.

The term "smoking" means any inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other prohibited tobacco product in any manner or any form. Prohibited tobacco products include water pipes or hookahs.

Violation of the smoke-free policy constitutes a violation of the terms of the public housing lease. Consequences of lease violations include termination of tenancy.

HRA POLICIES

Designated Smoking Areas (DSA)

HRA Policy

The HRA has established designated smoking areas at the John Carroll and Nan McKay High-rises. Residents using the designated smoking areas must extinguish all smoking materials and dispose of them safely in receptacles provided for that purpose.

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Electronic Nicotine Delivery Systems (ENDS)

Electronic nicotine delivery systems (ENDS) include e-cigarettes, nicotine inhalers, and vaping devices.

HRA Policy

Use of ENDS is permitted in public housing units but is prohibited in common areas and in outdoor areas within 25 feet from housing and administrative buildings. That is, use of ENDS is prohibited in all common and outdoor areas in which smoking is prohibited.

Effective Date

The HRA's effective date(s) of this smoke-free policy is/are as follows:

HRA Policy

The smoke-free policy is effective for all residents, household members, employees, guests, and service persons as of July 30, 2018.

Residents must execute a smoke-free lease addendum as part of the annual lease renewal process. All residents must have been in compliance with the smoke-free policy as of July 30, 2018.

Enforcement

The HRA must enforce smoke-free policies when a resident violates this policy. When enforcing the lease, the HRA will provide due process and allow residents to exercise their right to an informal settlement and formal hearing. The HRA will not evict a resident for a single incident of smoking in violation of this policy. As such, the HRA will implement a graduated enforcement framework that includes escalating warnings. Prior to pursuing eviction for violation of smoke-free policies, the HRA will take specific, progressive monitoring and enforcement actions, while at the same time educating tenants and providing smoking cessation information. The lease will identify the actions that constitute a policy violation, quantify the number of documented, verified violations that warrant enforcement action, state any disciplinary actions that will be taken for persistent non-responsiveness or repeated noncompliance, and state how many instances of noncompliance will constitute a violation. Tenancy termination and eviction will be pursued only as a last resort. The HRA may terminate tenancy at any time for violations of the lease and failure to otherwise fulfill household obligations if resident behavior disturbs other residents' peaceful enjoyment and is not conducive to maintaining the property in a decent, safe, and sanitary condition.

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HRA Policy

Upon issuance of a written warning from the property manager and/or a documented complaint, the HRA will increase the frequency of unit inspections for a suspected policy violator to two times per month.

If the resident does not have any new violations for six months, the resident will be considered to have a clear record, and no further enforcement action will be taken.

Repeated violation of the smoke-free policy may rise to the level of other good cause for termination of tenancy. Three violations of the smoke-free policy by any member of the household or by a guest of any member of the household in a 12-month period are grounds for termination of tenancy as described in the resident handbook and lease.

Reasonable Accommodation

While addiction to nicotine or smoking is not a disability, the HRA will provide reasonable accommodation to persons with disabilities who smoke that are in compliance with the requirements of this smoke-free policy.

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Chapter 9

REEXAMINATIONS

[24 CFR 960.257, 960.259, 966.4]

INTRODUCTION

With the exception of non-public housing over income families, the HRA is required to reexamine each family's income and composition periodically, and to adjust the family's rent accordingly. HRAs must adopt policies for conducting annual and interim reexaminations that are consistent with regulatory requirements and must conduct reexaminations in accordance with such policies [24 CFR 960.257(c)].

The frequency with which the HRA must reexamine the income and composition of a family depends on whether the family pays income-based rent or flat rent. HUD requires the HRA to offer all families the choice of paying income-based rent or flat rent at least annually. The HRA's policies for offering families a choice of rents are located in Chapter 6.

This chapter discusses both annual and interim reexaminations.

Part I: Annual Reexaminations for Families Paying Income Based Rents. This part discusses the requirements for annual reexamination of income and family composition. Full reexaminations are conducted at least once a year for families paying income-based rents.

Part II: Reexaminations for Families Paying Flat Rents. This part contains the HRA's policies for conducting full reexaminations of family income and composition for families paying flat rents. These full reexaminations are conducted at least once every three years. This part also contains the HRA's policies for conducting annual updates of family composition for flat rent families.

Part III: Interim Reexaminations. This part includes HUD requirements and HRA policies related to when a family may and must report changes that occur between annual reexaminations.

Part IV: Recalculating Tenant Rent. After gathering and verifying required information for an annual or interim reexamination, the HRA must recalculate the tenant rent. While the basic policies that govern these calculations are provided in Chapter 6, this part describes the policies that affect these calculations during a reexamination.

Part V: Non-Interim Reexamination Transactions. This part describes transactions that do not entail changes to the family's adjusted income.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this ACOP, apply to annual and interim reexaminations.

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PART I: ANNUAL REEXAMINATIONS FOR FAMILIES PAYING INCOME-BASED RENTS

24 CFR 960.257

9-I.A. OVERVIEW

For those families who choose to pay income-based rent, the HRA must conduct a reexamination of income and family composition at least annually [24 CFR 960.257(a)(1)]. With the exception of over-income families, who must have their income reviewed at 12 and 24 months, for flat rent families, the HRA must conduct a reexamination of family composition at least annually and must conduct a reexamination of family income at least once every three years [24 CFR 960.257(a)(2)]. For any non-public housing over income families, the HRA may not conduct an annual reexamination of family income. Policies related to the reexamination process for families paying flat rent are located in Part II of this chapter.

For all residents of public housing, whether those residents are paying income-based or flat rents, the HRA must conduct an annual review of community service requirement compliance. This annual reexamination is also a good time to have residents sign consent forms for criminal background checks in case the criminal history of a resident is needed at some point for the purposes of lease enforcement or eviction.

The HRA is required to obtain all of the information necessary to conduct reexaminations. How that information will be collected is left to the discretion of the HRA. Families are required to provide current and accurate information on income, assets, allowances and deductions, family composition and community service compliance as part of the reexamination process [24 CFR 960.259].

Unlike when performing an interim reexamination or at intake, at annual reexamination, the HRA must determine the income of the family for the previous 12-month period, except where the HRA uses a streamlined income determination. Income from assets, however, is always anticipated, irrespective of the income examination type [Notice PIH 2023-27]. HRAs also have the option of using a "safe harbor" income verification from another federal means-tested program to verify gross annual income. Chapter 7 contains the HRA's policies related to streamlined income determinations and the use of safe harbor income verifications.

This part contains the HRA's policies for conducting annual reexaminations.

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9-I.B. SCHEDULING ANNUAL REEXAMINATIONS

The HRA must establish a policy to ensure that the annual reexamination for each family paying an income-based rent is completed within a 12-month period [24 CFR 960.257(a)(1)].

HRA Policy

Generally, the HRA will schedule annual reexaminations to coincide with the family's anniversary date. The HRA will begin the annual reexamination process approximately 120 days in advance of the scheduled effective date.

Anniversary date is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

If the family transfers to a new unit, the PHA will perform a new annual reexamination, and the anniversary date will be changed.

The HRA may also schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

Notification of and Participation in the Annual Reexamination Process

The HRA is required to obtain information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the HRA. However, HRAs should give tenants who were not provided the opportunity to provide contact information at the time of admission the option to complete Form HUD-92006 at this time. The HRA should provide the family with the opportunity to update, change, or remove information from the HUD-92006 at the time of the annual reexamination [Notice PIH 2009-36].

HRA Policy

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

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

If the family is unable to attend a scheduled interview, the family should contact the HRA in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend the scheduled interview the HRA will send a second notification with a new interview appointment time.

If a family fails to attend two scheduled interviews without HRA approval, the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

An advocate, interpreter, or other assistant may assist the family in the interview process.

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9-I.C. CONDUCTING ANNUAL REEXAMINATIONS

The terms of the public housing lease require the family to furnish information regarding income and family composition as may be necessary for the redetermination of rent, eligibility, and the appropriateness of the housing unit [24 CFR 966.4(c)(2)].

HRA Policy

Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment. The required information will include an HRA-designated reexamination form as well as supporting documentation related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time of the interview or any stated deadline must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

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9-I.D. CALCULATING ANNUAL INCOME AT ANNUAL REEXAMINATION [24 CFR 5.609(c)(2) and Notice PIH 2023-27]

The HRA must determine the income of the family for the previous 12-month period and use this amount as the family income for annual reexaminations, except where the HRA uses a streamlined income determination as indicated in Chapter 7 of this policy. The HRA may also use Safe harbor income determinations dated within the last 12 months from a means-tested federal public assistance program at annual reexamination as outlined in Chapter 7 of this policy.

Except when using streamlined or safe harbor income determinations, in determining the income of the family for the previous 12-month period, any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination in accordance with HRA policies and 24 CFR 5.657(c) or 960.257(b) must be considered.

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

A change in income may be a loss of income or the addition of a new source of income. Changing to a different employer in the prior year does not necessarily constitute a change if the income earned from either employer is substantially the same. The HRA should look at the entirety of the family's unearned income and earned income from the prior year in which earned income may have been one constant job or many different jobs that start and stop.

Cost of Living Adjustments (COLA) to Social Security income and Social Security disability income are always considered changes to income because the COLA is an adjustment that automatically occurs annually by law. See Chapter 6 for HRA policies on when the COLA is applied and Chapter 7 on streamlined determination of income for inflationary adjustments.

Notice PIH 2023-27 lists the following steps to calculate both earned and unearned income at annual reexamination.

Step 1: The HRA determines annual income for the previous 12-month period by reviewing the following information:

- The EIV Income Report pulled within 120 days of the effective date of the annual reexamination;
- The income reported on the most recent HUD-50058; and
- The amount of prior-year income reported by the family on the HRA's annual reexamination paperwork.

Step 2: The HRA takes into consideration any interim reexamination of family income completed since the last annual reexamination.

- If there was an interim reexamination performed, the HRA must use the annual income from the interim to determine the family's total annual income, provided there are no additional changes.
- If the HRA did not perform an interim or there have been changes since the last reexamination, the HRA moves to Step 3.

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Step 3: If there were changes in annual income not processed by the HRA since the last reexamination, the HRA must use current income. The family will be required to report their income for the prior year and whether there have been permanent changes.

If there are no reported changes to an income source, the HRA may use documentation of prior-year income to calculate the annual income. For example, the HRA may use the following documentation:

- EIV + self-certification (wages, Supplemental Security Income (SSI), Social Security, and unemployment)
- Current written third-party verification from the source verifying prior-year income that is dated within 120 days of receipt by the HRA, for example:
  - Year-end statements
  - Paycheck with year-to-date amounts
  - Tax forms (Form 1040, W2, 1099, etc.)

If there are reported changes by the family or the HRA notes discrepancies between EIV and what the family reports, the HRA must follow the verification hierarchy (described in Chapter 7) to document and verify income. Exhibit 9-1 provides detailed examples of how the HRA calculates income from different sources at annual reexamination using the above method.

HRA Policy

When income is calculated using a streamlined income determination or Safe Harbor determination from a means-tested federal public assistance program in accordance with HRA policies in Chapter 7, the above is not applicable. However, where the family disagrees with the HRA or other agency's determination of income or the HRA has other reason to use third-party verification in these circumstances, then the above will apply.

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9-I.E. OTHER CONSIDERATIONS

Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. The HRA may use the results of the annual reexamination to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12.

Criminal Background Checks

Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR 5.903(e)(1)(ii)]. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

HRA Policy

Each household member age 18 and over will be required to execute a consent form for a criminal background check as part of the annual reexamination process.

Additionally, HUD recommends that at annual reexaminations HRAs ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state [Notice PIH 2012-28].

HRA Policy

At the annual reexamination, the HRA will ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state. The HRA will use the Dru Sjodin National Sex Offender database to verify the information provided by the tenant.

If the HRA proposes to terminate assistance based on lifetime sex offender registration information, the HRA must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination. [24 CFR 5.903(f) and 5.905(d)]. (See Chapter 13.)

Compliance with Community Service

For families who include nonexempt individuals, the HRA must determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)].

See Chapter 11 for the HRA's policies governing compliance with the community service requirement.

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9-I.F. EFFECTIVE DATES

As part of the annual reexamination process, the HRA must make appropriate adjustments in the rent after consultation with the family and upon verification of the information [24 CFR 960.257(a)(1)].

HRA Policy

In general, an *increase* in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If the HRA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the HRA, but will always allow for the 30-day notice period.

If the family causes a delay in processing the annual reexamination, *increases* in the tenant rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16.

In general, a *decrease* in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date.

If the HRA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the HRA.

If the family causes a delay in processing the annual reexamination, d*ecreases* in the tenant rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by the HRA by the date specified, and this delay prevents the HRA from completing the reexamination as scheduled.

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PART II: REEXAMINATIONS FOR FAMILIES PAYING FLAT RENTS

[24 CFR 960.253(f)]

9-II.A. OVERVIEW

HUD requires that the HRA offer all families the choice of paying income-based rent or flat rent at least annually. The HRA's policies for offering families a choice of rents are located in Chapter 6.

For families who choose flat rents, the HRA must conduct a reexamination of family composition at least annually and must conduct a reexamination of family income at least once every three years [24 CFR 960.253(f)]. The HRA is only required to provide the amount of income-based rent the family might pay in those years that the HRA conducts a full reexamination of income and family composition, or upon request of the family after the family submits updated income information [24 CFR 960.253(e)(2)]. However, these regulations are not applicable to over-income families. Once an over-income determination is made, the HRA must conduct an interim reexamination at 12 and 24 months, as applicable, to determine if the family remains over-income [Notice PIH 2023-03].

As it does for families that pay income-based rent, the HRA must also review compliance with the community service requirement for families with nonexempt individuals.

This part contains the HRA's policies for conducting reexaminations of families who choose to pay flat rents.

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9-II.B. FULL REEXAMINATION OF FAMILY INCOME AND COMPOSITION

Frequency of Reexamination

HRA Policy

For families paying flat rents, the HRA will conduct a full reexamination of family income and composition once every three years.

However, for flat rent families who become over-income, this policy will not apply. The HRA will instead conduct an interim reexamination at 12 and 24 months following the initial over-income determination as needed to verify the family remains over-income. The family will continue to be given a choice between income-based and flat rent at each annual reexamination during the over-income grace period.

If the family is subsequently determined to no longer be over-income:

If the determination is the result of an annual reexamination, the family will be given a choice between income-based or flat rent at reexam. If the family selects flat rent, the HRA will resume reexamination of family income and composition once every three years.

If determination is as a result of an interim reexamination, the HRA will conduct an annual reexamination for the family at their next scheduled annual date. If the family selects flat rent, the HRA will resume reexamination of family income and composition once every three years. Families will only be given the choice between income-based and flat rent at annual reexamination.

Reexamination Policies

HRA Policy

In conducting full reexaminations for families paying flat rents, the HRA will follow the policies used for the annual reexamination of families paying income-based rent as set forth in Sections 9-I.B through 9-I.E above.

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9-II.C. REEXAMINATION OF FAMILY COMPOSITION ("ANNUAL UPDATE")

As noted above, if full reexaminations are conducted every three years for families paying flat rents, in the years between full reexaminations, regulations require the HRA to conduct a reexamination of family composition ("annual update") [24 CFR 960.257(a)(2)]. Over-income families who select the flat rent are not subject to annual update as their income must be reviewed, and an interim reexamination conducted, at 12 and 24 months as applicable.

The annual update process is similar to the annual reexamination process, except that the HRA does not collect information about the family's income and expenses, and the family's rent is not recalculated following an annual update.

Scheduling

The HRA must establish a policy to ensure that the reexamination of family composition for families choosing to pay the flat rent is completed at least annually [24 CFR 960.257(a)(2)].

HRA Policy

For families paying flat rents, annual updates will be conducted in each of the 2 years following the full reexamination.

In scheduling the annual update, the HRA will follow the policy used for scheduling the annual reexamination of families paying income-based rent as set forth in Section 9-I.B. above.

Conducting Annual Updates

The terms of the public housing lease require the family to furnish information necessary for the redetermination of rent and family composition [24 CFR 966.4(c)(2)].

HRA Policy

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

Families will be asked to bring all required information (as described in the notice) to the annual update appointment. Any required documents or information that the family is unable to provide at the time of the interview must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

An advocate, interpreter, or other assistant may assist the family in the interview process.

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Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. The HRA may use the results of the annual update to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12.

Criminal Background Checks

Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR 5.903(e)]. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

HRA Policy

Each household member age 18 and over will be required to execute a consent form for criminal background check as part of the annual update process.

Compliance with Community Service

For families who include nonexempt individuals, the HRA must determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)].

See Chapter 11 for the HRA's policies governing compliance with the community service requirement.

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PART III: INTERIM REEXAMINATIONS

24 CFR 960.257(b); 24 CFR 966.4; and Notice PIH 2023-27

9-III.A. OVERVIEW

Family circumstances may change during the period between annual reexaminations. HUD and HRA policies define the types of information about changes in family circumstances that must be reported, and under what circumstances the HRA must process interim reexaminations to reflect those changes.

A family may request an interim determination of family income or composition because of any changes since the last determination. The HRA must conduct any interim reexamination within a reasonable period of time after the family request or when the HRA becomes aware of a change in the family's adjusted income that must be processed in accordance with HUD regulations. What qualifies as a "reasonable time" may vary based on the amount of time it takes to verify information, but the HRA generally should conduct the interim reexamination not longer than 30 days after the HRA becomes aware of changes in income.

Notice PIH 2023-27 changes the conditions under which interim reexaminations must be conducted, codifies when interim reexaminations should be processed and made effective, and requires related changes for annual reexaminations and streamlined income determinations. When the HRA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income.

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9-III.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

Reporting

HRAs must require families to report household composition changes; however, HRAs determine the timeframe in which reporting happens [Notice PIH 2023-27]. The HRA must adopt policies prescribing when and under what conditions the family must report changes in family composition [24 CFR 960.257(b)(5)].

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. Policies related to such transfers are located in Chapter 12.

HRA Policy

All families, those paying income-based rent as well as flat rent, must report all changes in family and household composition that occur between annual reexaminations (or annual updates) within 10 business days of the change.

The HRA will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

New Family Members Not Requiring Approval

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require HRA approval. However, the family is required to promptly notify the HRA of the addition [24 CFR 966.4(a)(1)(v)].

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New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request HRA approval to add a new family member [24 CFR 966.4(a)(1)(v)] or other household member (live-in aide or foster child) [24 CFR 966.4(d)(3)].

The HRA may adopt reasonable policies concerning residence by a foster child or a live-in aide and defining the circumstances in which HRA consent will be given or denied. Under such policies, the factors considered by the HRA may include [24 CFR 966.4(d)(3)(i)]:

- Whether the addition of a new occupant may necessitate a transfer of the family to another unit, and whether such units are available.
- The HRA's obligation to make reasonable accommodation for persons with disabilities.

HRA Policy

Families must request HRA approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 14 consecutive days or a total of 30 cumulative calendar days during any 12-month period and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by the HRA prior to the individual moving into the unit.

If adding a person to a household (other than a child by birth, adoption, or court-awarded custody) will require a transfer to a larger size unit (under the transfer policy in Chapter 12), the HRA will approve the addition only if the family can demonstrate that there are medical needs or other extenuating circumstances, including reasonable accommodation, that should be considered by the HRA. Exceptions will be made on a case-by-case basis.

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

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

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

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Departure of a Family or Household Member

The family must promptly notify the HRA if any household member (including a live-in aide, foster child, or foster adult) no longer lives in the unit. The HRA must process an interim for all decreases in adjusted income when a family member permanently moves out of the unit.

HRA Policy

If a household member ceases to reside in the unit, the family must inform the HRA within 10 business days. This requirement also applies to family members who had been considered temporarily absent, who are now permanently absent.

The HRA will process an interim if the family's adjusted income will decrease as a result of a family member permanently moving out of the unit.

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9-III.C. CHANGES AFFECTING INCOME OR EXPENSES

HRA Policy

This section only applies to families paying income-based rent. Families paying flat rent are not required to report changes in income or expenses.

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

The HRA must estimate the income of the family for the upcoming 12-month period to determine family income for an interim reexamination [24 CFR 5.609(c)(1)]. Policies for projecting income are found in Chapter 6.

Interim Decreases [24 CFR 960.257(b)(2) and Notice PIH 2023-27]

A family may request an interim determination of family income for any change since the last determination. However, the HRA may decline to conduct an interim reexamination if the HRA estimates the family's adjusted income will decrease by an amount that is less than 10 percent of the family's adjusted income. The HRA may set a lower threshold in HRA policy such as performing an interim for any decreases in adjusted income, although HUD prohibits the HRA from setting a dollar-figure threshold.

However, while the HRA has some discretion, HUD requires that the HRA perform an interim reexamination for a decrease in adjusted income of any amount in two circumstances:

- When there is a decrease in family size attributed to the death of a family member; or
- When a family member permanently moves out of the assisted unit during the period since the family's last reexamination.

In the above circumstances, the HRA must perform an interim reexamination for any decrease in adjusted income.

If the net effect of the changes in adjusted income due to a decrease in family size results in no change or an increase in annual adjusted income, then HRA must process the removal of the household member(s) as a non-interim reexamination transaction without making changes to the family's annual adjusted income.

HRA Policy

The HRA will conduct an interim reexamination any time the family's adjusted income has decreased by any amount.

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Interim Increases [24 CFR 960.257(b)(3) and Notice PIH 2023-27]

Increases Less than 10 Percent

HRAs must not process interim reexaminations for income increases that result in less than a 10 percent increase in annual adjusted income.

Increases 10 Percent or Greater

HRAs must conduct an interim reexamination of family income when the HRA becomes aware that the family's adjusted income has changed by an amount that the HRA estimates will result in an increase of 10 percent or more in adjusted income, with the following exceptions:

- HRAs may not consider any increases in earned income when estimating or calculating whether the family's adjusted income has increased, unless the family has previously received an interim reduction during the same reexamination cycle; and
- HRAs may choose not to conduct an interim reexamination during the last three months of a certification period if a family reports an increase in income within three months of the next annual reexamination effective date.

When the family previously received an interim reexamination for a decrease to adjusted income during the same annual reexamination cycle, an HRA has the discretion whether to consider a subsequent increase in earned income.

HRA Policy

Provided a family's increase meets the 10 percent threshold, the HRA will conduct an interim when the family experiences an increase in earned income and the family previously had an interim performed for a decrease in adjusted income (whether for earned income, unearned income, or a combination of the two) since their last annual.

The HRA will not process an interim for increases in earned income when an interim was previously performed since the family's last annual and the interim resulted in an increase in the family's rent, nor will the HRA process an interim for an increase in earned income when the family has not had a previous interim reexamination since their last annual.

The HRA will also process an interim for any other increases in income that meet the 10 percent threshold.

The HRA will not perform an interim reexamination when a family reports an increase in income (whether earned or unearned income) within three months of their annual reexamination effective date. However, families who delay reporting income increases until the last three months of their certification period may be subject to retroactive rent increases in accordance with the HRA policies in Chapter 15.

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Concurrent Increases in Earned and Unearned Income [Notice PIH 2023-27]

When the family reports an increase in both earned and unearned income at the same time, the HRA must look at the earned and unearned income changes independently of each other to determine if an interim reexamination is performed. The HRA will only conduct an interim reexamination when the increase independently meets the 10 percent threshold and all other requirements for performing interim reexaminations. For example, if a family reported increases in both earned and unearned income that overall resulted in a 12 percent increase in their adjusted income, but the change in earned income represented a 7 percent increase and the change in unearned income represented a 5 percent increase, the HRA may not perform an interim for either change since neither change meets the 10 percent threshold amount independently. If the change in unearned income met the 10 percent threshold in this case, the HRA would be required to perform an interim. If the change in earned income met the 10 percent threshold in this case, the HRA would refer to HRA policy to determine whether an interim was required.

Cumulative Increases [Notice PIH 2023-27]

A series of smaller reported increases in adjusted income may cumulatively meet or exceed the 10-percent increase threshold, at which point the HRA must conduct an interim reexamination in accordance with HRA policy.

Public Housing Over-Income Families [24 CFR 960.507(c); Notice PIH 2020-3; and Notice PIH 2023-27]

Regardless of changes in adjusted income, in some circumstances the HRA is required to conduct an interim reexamination to determine whether a family's income continues to exceed the public housing over-income limit. HRAs are required to conduct income examinations of public housing families who have been determined to exceed the over-income limit at specific intervals. When an HRA makes an initial determination that a family is over-income during an interim reexamination, the HRA must conduct a second interim reexamination 12 months after the over-income determination, and then again 12 months after the second over-income determination, unless the family's income falls below the over-income limit during the 24-month period. This continued evaluation of the family's over-income status requires the HRA to notify any family that exceeds the over-income limit that they remain over the income limit, even if the family is paying the flat rent [24 CFR 960.253]. An interim income reexamination to determine if a public housing family remains over-income does not reset the family's normal annual reexamination date.

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Family Reporting

The HRA must adopt policies consistent with HUD regulations prescribing when and under what conditions the family must report a change in family income or composition [24 CFR 960.257(b)(5)].

HRA policy may require families to report only changes that the family estimates meet the threshold for an interim reexamination or the HRA may establish policies requiring that families report all changes in income and household composition, and the HRA will subsequently determine if the change requires an interim reexamination [Notice PIH 2023-27].

When the HRA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income. For example, if the family is reporting a decrease in adjusted income that is more than 10 percent, but the family also had a change in assets that would result in a change in income, the change in assets must also be reviewed [Notice PIH 2023-27].

HRA Policy

Families will be required to report only changes that the family estimates meet the threshold for an interim reexamination. Families must report changes that meet the threshold within 10 business days of the date the change takes effect. The family may notify the HRA of changes either orally or in writing. If the family provides oral notice, the HRA may also require the family to submit the changes in writing. The family is not required to report changes it does not estimate meet the threshold for an interim reexamination.

Within 10 business days of the family reporting the change, the HRA will determine whether the change will require an interim reexamination.

If the change will not result in an interim reexamination, the HRA will note the information in the tenant file but will not conduct an interim reexamination. The HRA will send the family written notification within 10 business days of making this determination informing the family that the HRA will not conduct an interim reexamination.

If the change will result in an interim reexamination, the HRA will determine the documentation the family will be required to submit based on the type of change reported and HRA policies in Chapter 7. The HRA will ask the family to report changes in all aspects of adjusted income at this time. The family must submit any required information or documents within 10 business days of receiving a request from the HRA. This time frame may be extended for good cause with HRA approval. The HRA will accept required documentation by mail, email, fax, or in person. The HRA will conduct the interim within a reasonable time period based on the amount of time it takes to verify the information.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if the HRA determines that an interview is warranted, the family may be required to attend.

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9-III.D. EFFECTIVE DATES

Changes Reported Timely [24 CFR 960.257(b)(6) and Notice PIH 2023-27]

If the family reports a change in family income or composition timely in accordance with HRA policies:

- For rent increases, the HRA must provide the family with 30 days advance written notice. The rent increase is effective the first of the month after the end of that 30-day notice period.
- Rent decreases are effective on the first of the month after the date of the actual change leading to the interim reexamination of family income. This means the decrease will be applied retroactively.

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Changes Not Reported Timely [24 CFR 960.257(b)(6)(ii) and (iii) and Notice PIH 2023-27]

If the family failed to report a change in family income or composition timely in accordance with HRA policies:

- For rent increases, the HRA must implement any resulting rent increases retroactively to the first of the month following the date of the change leading to the interim reexamination of family income.
- For rent decreases, the HRA must implement the change no later than the first rent period following completion of the interim reexamination.

However, the HRA may choose to adopt a policy that would make the effective date of the rent decrease retroactive to the first of the month following completion of the reexamination. HRAs may choose to establish conditions or requirements for when such a retroactive application would apply. HRAs that choose to adopt such policies must ensure the earliest date that the retroactive decrease is applied is the later of:

- The first of the month following the date of the change that led to the interim reexamination; or
- The first of the month following the most recent previous income examination.

In applying a retroactive change in rent as the result of an interim reexamination, the HRA must clearly communicate the effect of the retroactive adjustment to the family so that there is no confusion over the amount of the rent that is the family's responsibility.

HRA Policy

In general, when the family fails to report a change in income or family composition timely, and the change would lead to a rent decrease, the HRA will apply the decrease the first of the month following completion of the interim reexamination.

However, the HRA will apply the results of the interim reexamination retroactively where a family's ability to report a change in income promptly may have been hampered due to extenuating circumstances such as a natural disaster or disruptions to HRA management operations. The HRA will decide to apply decreases retroactively on a case-by-case basis.

When the HRA applies the results of interim decreases retroactively, the HRA will clearly communicate the effect of the retroactive adjustment to the family and may enter into a repayment agreement in accordance with HRA policies.

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PART IV: RECALCULATING TENANT RENT

9-IV.A. OVERVIEW

For those families paying income-based rent, the HRA must recalculate the rent amount based on the income information received during the reexamination process and notify the family of the changes [24 CFR 966.4, 960.257]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

9-IV.B. CHANGES IN UTILITY ALLOWANCES [24 CFR 965.507, 24 CFR 966.4]

The tenant rent calculations must reflect any changes in the HRA's utility allowance schedule [24 CFR 960.253(c)(3)]. Chapter 16 discusses how utility allowance schedules are established.

HRA Policy

Unless the HRA is required to revise utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

9-IV.C. NOTIFICATION OF NEW TENANT RENT

The public housing lease requires the HRA to give the tenant written notice stating any change in the amount of tenant rent, and when the change is effective [24 CFR 966.4(b)(1)(ii)].

When the HRA redetermines the amount of rent (Total Tenant Payment or Tenant Rent) payable by the tenant, not including determination of the HRA 's schedule of Utility Allowances for families in the HRA 's Public Housing Program, or determines that the tenant must transfer to another unit based on family composition, the HRA must notify the tenant that the tenant may ask for an explanation stating the specific grounds of the HRA determination, and that if the tenant does not agree with the determination, the tenant shall have the right to request a hearing under the HRA's grievance procedure [24 CFR 966.4(c)(4)].

HRA Policy

The notice to the family will include the annual and adjusted income amounts that were used to calculate the tenant rent.

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9-IV.D. DISCREPANCIES

During an annual or interim reexamination, the HRA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the HRA may discover errors made by the HRA. When errors resulting in the overpayment or underpayment of rent are discovered, corrections will be made in accordance with the policies in Chapter 15.

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PART V: NON-INTERIM REEXAMINATION TRANSACTIONS

Notice PIH 2023-27

Families may experience changes within the household that do not trigger an interim reexamination under HRA policy and HUD regulations but which HUD still requires the HRA to report via Form HUD-50058. These are known as *non-interim reexamination transactions*. In these cases, HRAs will submit a separate, new action code on Form HUD-50058. The following is a list of non-interim reexamination transactions:

- Adding or removing a hardship exemption for the child care expense deduction;
- Updating or removing the HRAsed-in hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction (the HRAsed-in relief will begin at an eligible family's first annual or interim reexamination, whichever is sooner, after January 1, 2024);
- Adding or removing general hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction;
- Adding or removing a minimum rent hardship;
- Adding or removing a non-family member (i.e., live-in aide, foster child, foster adult);
- Ending a family's EID or excluding 50 percent (decreased from 100 percent) of a family member's increase in employment income at the start of the second 12-month EID period.
- Adding a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Removing a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Adding/updating a family or household member's Social Security number; and
- Updating a family member's citizenship status from eligible to ineligible or vice versa, resulting in a change to the family's rent and/or utility reimbursement, if applicable (i.e., family begins receiving prorated assistance or previously prorated assistance becomes full assistance), or updating the prorated rent calculation due to the addition or removal of family members in household with an ineligible noncitizen(s).

HRAs must make all other changes to assets, income, and deductions at the next annual or interim reexamination of income, whichever is sooner.

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EXHIBIT 9-1: CALCULATING INCOME AT ANNUAL REEXAMINATION

Example 1: Calculating Annual Income at Annual Reexamination Using EIV

Staff are processing the 3/1/2024 annual reexamination for Ruby Myers and her minor daughter, Georgia. No interim reexaminations have been processed, and Ruby has not reported any changes to annual income to the HRA since the 3/1/2023 annual reexamination. The SSA-published 2024 COLA is 7 percent.

Last reexamination – 3/1/2023 Annual Reexamination

Ruby:	Georgia:
Wages: $30,000	SSI: $10,980 ($915 monthly)

The EIV report pulled on 12/15/2023

Ruby:	Georgia:
Wages Total: $33,651	SSI Total: $10,980
Quarter 3 of 2023: $8,859 (City Public School)	2023 benefit $915 monthly
Quarter 2 of 2023: $8,616 (City Public School)	
Quarter 1 of 2023: $8,823 (City Public School)	
Quarter 4 of 2022: $7,353 (City Public School)	

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Income Reported on Reexamination Application	
Ruby: Wages at City Public School: $32,000 (switched jobs but no permanent change to amount)	Georgia: SSI benefits: $10,980 (no changes)
Calculating Ruby's wages: Step 1: Determine prior annual income from EIV (i.e., Q4 2022 through Q3 of 2023: $33,651). Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination). Step 3: Ruby certifies that the $33,651 of wages in EIV is accurate and reflects her current annual income, so the HRA will use $33,651 for annual wages for the 3/1/2024 annual reexamination given there have been no additional changes to annual income.	Calculating Georgia's SSI benefit: Step 1: Determine the prior annual income from EIV (i.e., $915 x 12 months: $10,980). Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination). Step 3: Ruby certifies the SSI income in EIV is accurate and reflects Georgia's current annual income. The HRA must adjust the prior-year income (2023 SSI benefit) by the 7- percent COLA and will use this amount to calculate annual SSI income for the 3/1/2024 annual reexamination: COLA: $64.05 ($915 x 0.07) New gross SSI benefit: $11,748.60 ($979.05 x 12 months)
If Ruby did not agree with the annual wages reported in EIV, the HRA/MFH Owner would be required to verify her current income in accordance with HUD's verification hierarchy.	
Summary of Annual Income (as reported on the HUD-50058)	
Ruby (Head of Household): Other Wage: $33,651 Myers Family Total Annual Income: $45,399	Georgia (Other Youth Under 18): SSI: $11,748

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Example 2: Calculating Annual Income at Annual Reexamination Using EIV: Family Disagrees with EIV

Staff are processing Paul Hewson's 5/1/2024 annual reexamination. Since the last annual reexamination, Paul reported a decrease in annual income that exceeded 10 percent. Last year, Paul reported a decrease in earned income because he transferred from a full-time job at Sasha's Sweets to a part-time job at Viking Bakery. Following HUD's EIV verification hierarchy, staff confirmed Paul was no longer employed at Sasha's Sweets and decreased his anticipated annual income from $28,000 to $7,500 resulting from his new part-time employment at Viking Bakery; an interim reexamination was processed effective 7/1/2023. After the 7/1/2023 interim, Paul worked briefly at two different jobs, but he says he is no longer working and is not planning to work.
5/1/2023 Annual Reexamination
Wages: $28,000

The EIV report pulled on 1/15/2024

Wages Total: $18,271

Quarter 3 of 2023: $2,500 (Viking Bakery)

Quarter 3 of 2023: $796 (Sweet Tooth Candy Bar)

Quarter 2 of 2023: $1,300 (Sasha's Sweets)

Quarter 2 of 2023: $584 (Larry's Concessions)

Quarter 2 of 2023: $2,401 (Viking Bakery)

Quarter 1 of 2023: $6,500 (Sasha's Sweets)

Quarter 4 of 2022: $600 (Sasha's Sweets)

SS/SSI: No history of benefits

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Income Reported on Reexamination Application
Wages: $0 (permanent change; no longer receiving) Social Security: $14,400 ($1,200 monthly) Paul certified on the HRA's annual reexamination paperwork that he does not agree with the annual wages of $18,271 reported in EIV and it is not reflective of his current anticipated annual income. He reported he is currently unemployed, and provided a copy of an award letter from the Social Security Administration to document that he will begin receiving a monthly disability benefit of $1,200 effective 3/1/2024.
Calculating Wages and SS Benefit
Step 1: Determine prior annual income taking into consideration the 8/1/2023 interim reexamination (i.e., EIV wages reflected Q4 2022 through Q3 2023: $18,271) Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there was a 7/1/2023 interim that reduced wages to $7,500. Step 3: Obtain documentation to verify current income and confirm Paul is no longer employed at Viking Bakery or The Sweet Tooth Candy Bar (the employers reported in the most recent quarter of EIV). This step is necessary, because Paul did not agree with the EIV income report or income reported on the last interim reexamination. Paul reported that he is no longer working at all. Process the annual reexamination effective 5/1/2024 using annual SS income of $14,400 and $0 wages.
Summary of Annual Income (as reported on the HUD-50058)
Paul (Head of Household): $14,400 (SS) Hewson Family Total Annual Income: $14,400

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Example 3: Calculating Annual Income at Annual Reexamination

Staff are processing the 11/1/2024 annual reexamination for Samantha and Fergus Pool, head of household and spouse. On 2/14/2024 Samantha reported her monthly child support payment was reduced from $200 to $100 per month, but an interim reexamination was not processed because the reduction in child support income for Samantha's daughter, Hailey, did not result in a decrease of 10 percent or more in annual adjusted income, and the HRA did not establish a lower threshold. Samantha did not report any additional changes to the HRA.

Last reexamination – 11/1/2023 Annual Reexamination

Samantha:	Fergus:
Business income: $28,000	Wages: $8,250
VA disability pension: $12,000	Other non-wage income: $3,000 (Go Fund Me online fundraiser)
Child support: $2,400	

The EIV report pulled on 9/16/2024

Samantha:	Fergus:
Wages Total: $0 (no wage data reported since Q1 2023)	Wages Total: $8,600
	Quarter 1 of 2024: $2,100 (Ian's Fish 'n' Chips)
	Quarter 1 of 2024: $500 (Claire's Healthcare Supplies)
	Quarter 4 of 2023: $1,000 (Claire's Healthcare Supplies)
	Quarter 3 of 2023: $1,800 (The Onion Garden Shop)
	Quarter 2 of 2023: $3,200 (Ivar's Fish Haus)

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Current Family Circumstances: Income Reported on Reexamination Application

Samantha and Fergus reported how much income was earned/received in the previous 12-month period and noted permanent changes, where applicable, for each source of their income on HRA's annual reexamination form. However, no information was reported by the family concerning other non-wage income. Fergus reported only wages and his current employment at Ian's Fish 'n' Chips for the annual reexamination. The family supplied the supporting documentation noted below to the HRA for the 11/1/2024 annual reexamination.

Samantha:	Fergus:
Business income: $28,750 (last year); has decreased to $18,000 (permanent change)	Wages: $6,000
VA disability benefit: $12,000 (last year); has increased to $12,300 (permanent change)	
Child support: $2,400 (last year); has decreased to $1,200 (permanent change)	

Calculating Samantha's Net Business Income

Step 1: Determine prior annual net business income (i.e., $28,000 on last HUD–50058.

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: Adjust to reflect current net business income. Samantha reported on the annual reexamination application that business income permanently decreased to $18,000. The HRA must obtain supporting documentation from Samantha that demonstrates current net business income. Samantha provided documentation that supported the current annual net business income is $18,000. Process the annual reexamination effective 11/1/2024 using annual net business income determined in Step 3.

Calculating Samantha's VA Pension Income

Step 1: Determine prior annual VA pension income (i.e., $12,000 supported by a VA award letter Samantha supplied that documents the prior year monthly VA pension was $1,000).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: The HRA needs to adjust to reflect current VA pension income. Samantha supplies a VA award letter showing a monthly pension of $1,025, or $12,300 annually. Process the annual reexamination effective 11/1/2024 using annual VA pension income determined in Step 3 ($12,300 in this example).

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Calculating Samantha's Child Support Income

Step 1: Determine prior annual child support income (i.e., $2,400 on the last HUD–50058).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination. The family reported a decrease from $200 to $100 monthly, but the change was not processed because it did not meet the threshold.

Step 3: The family reported changes, so the HRA must adjust to reflect current child support income. In this example, the family submitted a child support history report from the local child support office that documents regular $100 monthly child supports payments beginning 3/1/2024 through the current month. Process the annual reexamination effective 11/1/2024 using current annual child support income determined in Step 3 ($1,200 in this example).

Calculating Fergus' Wages

Step 1: Determine prior annual income from wages in EIV (i.e., Q2 2023 through Q1 of 2024: $8,600).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

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Step 3: There is a discrepancy between what the family reported and EIV, so the HRA must verify and adjust to reflect current annual income from wages. Fergus reported $6,000 in annual income from wages on the annual reexamination from a single employer, Ian's Fish 'n' Chips. The HRA projected annual income of $7,800 based on the two paystubs for this employer, and EIV shows $8,600 earned in the most recent four quarters in EIV. To complete Step 3, the HRA must do the following:

- Resolve the discrepancy between EIV wages, the $6,000 annual income Fergus reported, and the $7,800 projected based on the paystubs he provided, and
- Verify he is no longer employed at Claire's Healthcare Supplies in accordance with HUD's verification hierarchy and local policies.

The HRA determined that Fergus reported his net vs. gross annual income from wages, which he corrected on the annual reexamination form to reflect his current gross annual income of $9,000. The HRA verified Fergus was no longer employed at Claire's Healthcare Supplies and obtained two additional paystubs. Based on four current and consecutive paystubs, Fergus is now projected to earn $9,360 annually. Process the annual reexamination effective 11/1/2024 using income from wages determined in Step 3 ($9,360 in this example).

<table>
<tr><td colspan="2">Calculating Fergus' Other Non-Wage Income

Step 1: Determine prior annual income from other non-wage income (i.e., $3,000 on the last HUD– 50058).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: The family did not report any non-wage income on the annual reexamination form, but it was included on the last HUD–50058. The HRA must verify and adjust to reflect current non-wage income. The HRA must verify no income was received through a "Go Fund Me" online fundraiser so that it may be excluded. Fergus provided a self-certification that he hasn't solicited funds online and doesn't plan to in the following year; he also provided records from the account that documented no fundraising activity in the prior 12-month period. Process the annual reexamination effective 11/1/2024 using annual non-wage income of $0 determined in Step 3.</td></tr>
<tr><td colspan="2">Summary of Annual Income (as reported on the HUD-50058)</td></tr>
<tr><td>Samantha (Head of Household):

Own business: $18,000

Pension: $12,300

Child support: $1,200</td><td>Fergus (Co-head):

Wages: $9,360</td></tr>
<tr><td colspan="2">Poole Family Total Annual Income: $40,860</td></tr>
</table>

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Chapter 10

PETS

[24 CFR 5, Subpart C; 24 CFR 960, Subpart G]

INTRODUCTION

This chapter explains the HRA's policies on the keeping of pets and describes any criteria or standards pertaining to the policies. The rules adopted are reasonably related to the legitimate interest of the HRA to provide a decent, safe and sanitary living environment for all tenants, and to protect and preserve the physical condition of the property, as well as the financial interest of the HRA.

The chapter is organized as follows:

Part I: Assistance Animals. This part explains the difference between assistance animals,, including service and support animals, and pets, and contains policies related to the designation of an assistance animal as well as their care and handling.

Part II: Pet policies for all developments. This part includes pet policies that are common to both elderly/disabled developments and general occupancy developments.

Part III: Pet deposits and fees for elderly/disabled developments. This part contains policies for pet deposits and fees that are applicable to elderly/disabled developments.

Part IV: Pet deposits and fees for general occupancy developments. This part contains policies for pet deposits and fees that are applicable to general occupancy developments.

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PART I: ASSISTANCE ANIMALS

[Section 504; Fair Housing Act (42 U.S.C.); 24 CFR 5.303; 24 CFR 960.705; Notice FHEO 2020-01]

10-I.A. OVERVIEW

This part discusses situations under which permission for an assistance animal, including service and support animals, may be denied, and also establishes standards for the care of assistance animals.

Notice FHEO 2020-01 was published January 28, 2020. The notice provides guidance to help HRAs 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 HRA's pet policies. FHEO 2020-01 makes clear that the notice is guidance and a tool for HRAs and other housing providers to use at their discretion and provides a set of best practices for addressing requests for assistance animals. The guidance in FHEO 2020-01 should be read together with HUD's regulations prohibiting discrimination under the Fair Housing Act (FHA) and the HUD/Department of Justice (DOJ) Joint Statement on Reasonable Accommodation under the Fair Housing Act. Housing providers may also be subject to the Americans with Disabilities Act (ADA) and should therefore refer also to DOJ's regulations implementing Titles II and III of the ADA at 28 CFR Parts 35 and 36, in addition to DOJ's other guidance on 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 (i.e., support animals).

Assistance animals, including service and support animals, are not pets and thus are not subject to the HRA's pet policies described in Parts II through IV of this chapter [24 CFR 5.303; 960.705; Notice FHEO 2020-01].

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10-I.B. APPROVAL OF ASSISTANCE ANIMALS [Notice FHEO 2020-01]

Service Animals

Notice FHEO 2020-01 states that HRAs should initially follow the Department of Justice (DOJ) analysis to assessing whether an animal is a service animal under the Americans with Disabilities Act (ADA). Under the ADA, a *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 use the following questions to help them determine if an animal is a service animal under the ADA:

- Is the animal a dog? If not, the animal is not a service animal but may be another type of assistance animal for which an accommodation is needed (support animal).
- Is it readily apparent that the dog is trained to do work or perform tasks for the benefit of the individual with a disability? If yes, further inquiries are inappropriate because the animal is a service animal. If not, it is advisable that the HRA limit its inquiries to the following two questions: (1) Is the animal required because of the disability? and (2) What work or task has the animal been trained to perform?

  If the answer to question (1) is "yes" and work or a task is identified in response to question (2), grant the requested accommodation if otherwise reasonable. If the answer to either question is "no," the animal does not qualify as a service animal but may be a support animal.

A service animal must be permitted in all areas of the facility where members of the public are allowed.

Support Animals (Assistance Animals other than Service Animals)

If the animal does not qualify as a service animal, the HRA must next determine whether the animal would qualify as a support animal (other type of assistance animal). If the individual has indeed requested a reasonable accommodation to get or keep an animal in connection with a physical or mental impairment or disability, the HRA may use the following questions to help them assess whether to grant the accommodation in accordance with the policies outlined in Chapter 2 (the HRA is not required to grant a reasonable accommodation that has not been requested):

- Does the person have an observable disability or does the HRA already have information giving them reason to believe that the person has a disability? If not, has the person requesting the accommodation provided information that reasonably supports that the person seeking the accommodation has a disability?

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- If the person has an observable disability, the HRA already has information giving them reason to believe the person has a disability, or the person has provided information supporting that they have a disability, then has the person provided information that reasonably supports that the animal does work, performs tasks, provides assistance, and/or provides therapeutic emotional support with respect to the individual's disability?
- If yes, is the 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, then the requestor has the substantial burden of demonstrating a disability-related therapeutic need for the specific animal or the specific type of animal. Such individuals are encouraged to submit documentation from a health care professional.

General Considerations

A person with a disability is not automatically entitled to have an assistance animal. Reasonable accommodation requires that there is a relationship between the person's disability and their need for the animal [PH Occ GB, p. 179].

Before denying a reasonable accommodation request due to lack of information confirming an individual's disability or disability-related need for an animal, the HRA is encouraged to engage in a good-faith dialog with the requestor called the "interactive process" [FHEO 2020-01].

An HRA may not refuse to allow a person with a disability to have an assistance animal merely because the animal does not have formal training. Some, but not all, animals that assist persons with disabilities are professionally trained. Other assistance animals are trained by the owners themselves and, in some cases, no special training is required. The question is whether or not the animal performs the assistance or provides the benefit needed by the person with the disability [PH Occ GB, p. 178].

An HRA's refusal to permit persons with a disability to use and live with an assistance animal that is needed to assist them, would violate Section 504 of the Rehabilitation Act and the Fair Housing Act unless [PH Occ GB, p. 179]:

- There is reliable objective evidence that the animal poses a direct threat to the health or safety of others that cannot be reduced or eliminated by a reasonable accommodation
- There is reliable objective evidence that the animal would cause substantial physical damage to the property of others

The Fair Housing Act 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. AN HRA 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 the actions the individual takes to maintain or control the animal (e.g., keeping the animal in a security enclosure).

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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 in accordance with the reasonable accommodation policies in Chapter 2 for all requests for exceptions or modifications to the HRA's rules, policies, practices, and procedures so that persons with disabilities can have assistance animals in the housing where they reside.

HRAs have the authority to regulate service animals and assistance animals under applicable federal, state, and local law [24 CFR 5.303(b)(3); 960.705(b)(3)].

HRA Policy

For an animal to be excluded from the pet policy and be considered a service animal, it must be a trained dog, and there must be a person with disabilities in the household who requires the dog's services.

For an animal to be excluded from the pet policy and be considered a support animal, there must be a person with disabilities in the household, there must be a disability-related need for the animal, and the family must request and the HRA approve a reasonable accommodation in accordance with the criteria outlined in Notice FHEO 2020-01 and the policies contained in Chapter 2.

10-I.C. CARE AND HANDLING

HUD regulations do not affect any authority An HRA may have to regulate assistance animals, including service animals, under federal, state, and local law [24 CFR 5.303; 24 CFR 960.705].

HRA Policy

Residents are responsible for feeding, maintaining, providing veterinary care, and controlling their assistance animals. A resident may do this on their own or with the assistance of family, friends, volunteers, or service providers.

Residents must care for assistance animals in a manner that complies with state and local laws, including anti-cruelty laws.

Residents must ensure that assistance animals do not pose a direct threat to the health or safety of others, or cause substantial physical damage to the development, dwelling unit, or property of other residents.

When a resident's care or handling of an assistance animal violates these policies, the HRA will consider whether the violation could be reduced or eliminated by a reasonable accommodation. If the HRA determines that no such accommodation can be made, the HRA may withdraw the approval of a particular assistance animal.

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PART II: PET POLICIES FOR ALL DEVELOPMENTS

[24 CFR 5, Subpart C; 24 CFR 960, Subpart G]

10-II.A. OVERVIEW

The purpose of a pet policy is to establish clear guidelines for ownership of pets and to ensure that no applicant or resident is discriminated against regarding admission or continued occupancy because of ownership of pets. It also establishes reasonable rules governing the keeping of common household pets. This part contains pet policies that apply to all developments.

10-II.B. MANAGEMENT APPROVAL OF PETS

Registration of Pets

HRAs may require registration of the pet with the HRA [24 CFR 960.707(b)(5)].

HRA Policy

Pets must be registered with the HRA before they are brought onto the premises.

Registration includes documentation signed by a licensed veterinarian or state/local authority that the pet has received all inoculations required by state or local law, and that the pet has no communicable disease(s) and is pest-free. This registration must be renewed annually and will be coordinated with the annual reexamination date.

Pets will not be approved to reside in a unit until completion of the registration requirements.

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Refusal to Register Pets

HRA Policy

The HRA will refuse to register a pet if:

The pet is not *a common household pet* as defined in Section 10-II.C. below

Keeping the pet would violate any pet restrictions listed in this policy

The pet owner fails to provide complete pet registration information, or fails to update the registration annually

The applicant has previously been charged with animal cruelty under state or local law; or has been evicted, had to relinquish a pet or been prohibited from future pet ownership due to pet rule violations or a court order

The HRA reasonably determines that the pet owner is unable to keep the pet in compliance with the pet rules and other lease obligations. The pet's temperament and behavior may be considered as a factor in determining the pet owner's ability to comply with provisions of the lease.

If the HRA refuses to register a pet, a written notification will be sent to the pet owner within 10 business days of the HRA's decision. The notice will state the reason for refusing to register the pet and will inform the family of their right to appeal the decision in accordance with the HRA's grievance procedures.

Pet Agreement

HRA Policy

Residents who have been approved to have a pet must enter into a pet agreement with the HRA, or the approval of the pet will be withdrawn.

The pet agreement is the resident's certification that they have received a copy of the HRA's pet policy and applicable house rules, that they have read the policies and/or rules, understand them, and agree to comply with them.

The resident further certifies by signing the pet agreement that they understand that noncompliance with the HRA's pet policy and applicable house rules may result in the withdrawal of HRA approval of the pet or termination of tenancy.

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10-II.C. STANDARDS FOR PETS [24 CFR 5.318; 960.707(b)]

HRAs may establish reasonable requirements related to pet ownership including, but not limited to:

- Limitations on the number of animals in a unit, based on unit size
- Prohibitions on types of animals that the HRA classifies as dangerous, provided that such classifications are consistent with applicable state and local law
- Prohibitions on individual animals, based on certain factors, including the size and weight of the animal
- Requiring pet owners to have their pets spayed or neutered

Cat declawing is not a requirement or condition of pet ownership in public housing and HUD encourages HRAs to refrain from engaging in this practice [New PH OCC GB, *Pet Ownership,* p. 9].

HRAs may not require pet owners to have any pet's vocal cords removed.

HRAs may not require pet owners to obtain or carry liability insurance.

Definition of "Common Household Pet"

There is no regulatory definition of common household pet for public housing programs, although the regulations for pet ownership in both elderly/disabled and general occupancy developments use the term. The regulations for pet ownership in elderly/disabled developments expressly authorize HRAs to define the term [24 CFR 5.306(2)].

HRA Policy

Common household pet means a domesticated animal, such as a dog, cat, bird, or fish that is traditionally recognized as a companion animal and is kept in the home for pleasure rather than commercial purposes.

The following animals are not considered common household pets:

Reptiles

Rodents

Insects

Arachnids

Wild animals or feral animals

Pot-bellied pigs

Animals used for commercial breeding

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Pet Restrictions

HRA Policy

The following animals are not permitted:

Any animal whose adult weight will exceed 25 pounds

Dogs of the pit bull, rottweiler, chow, or boxer breeds

Ferrets or other animals whose natural protective mechanisms pose a risk to small children of serious bites or lacerations

Any animal not permitted under state or local law or code

Number of Pets

HRA Policy

Residents may own a maximum of 2 pets, only 1 of which may be a dog.

In the case of fish, residents may keep no more than can be maintained in a safe and healthy manner in a tank holding up to 10 gallons. Such a tank or aquarium will be counted as 1 pet.

Other Requirements

HRA Policy

Dogs and cats must be spayed or neutered at the time of registration or, in the case of underage animals, within 30 days of the pet reaching 6 months of age. Exceptions may be made upon veterinary certification that subjecting this particular pet to the procedure would be temporarily or permanently medically unsafe or unnecessary.

Pets must be licensed in accordance with state or local law. Residents must provide proof of licensing at the time of registration and annually, in conjunction with the resident's annual reexamination.

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10-II.D. PET RULES

Pet owners must maintain pets responsibly, in accordance with HRA policies, and in compliance with applicable state and local public health, animal control, and animal cruelty laws and regulations [24 CFR 5.315; 24 CFR 960.707(a)].

Pet Area Restrictions

HRA Policy

Pets must be maintained within the resident's unit. When outside of the unit (within the building or on the grounds) dogs and cats must be kept on a leash or carried. They must be under the control of the resident or other responsible individual at all times.

Pets other than dogs or cats must be kept in a cage or carrier when outside of the unit.

Pets are not permitted in common areas including lobbies, community rooms and laundry areas except for those common areas which are entrances to and exits from the building.

Pet owners are not permitted to exercise pets or permit pets to deposit waste on project premises outside of the areas designated for such purposes.

Designated Pet/No-Pet Areas [24 CFR 5.318(g), PH Occ GB, p. 182]

HRAs may designate buildings, floors of buildings, or sections of buildings as no-pet areas where pets generally may not be permitted. Pet rules may also designate buildings, floors of building, or sections of building for residency by pet-owning tenants.

HRAs may direct initial tenant moves as may be necessary to establish pet and no-pet areas. The HRA may not refuse to admit, or delay admission of, an applicant on the grounds that the applicant's admission would violate a pet or no-pet area. The HRA may adjust the pet and no-pet areas or may direct such additional moves as may be necessary to accommodate such applicants for tenancy or to meet the changing needs of the existing tenants.

HRAs may not designate an entire development as a no-pet area, since regulations permit residents to own pets.

HRA Policy

With the exception of common areas as described in the previous policy, the HRA has not designated any buildings, floors of buildings, or sections of buildings as no-pet areas. In addition, the HRA has not designated any buildings, floors of buildings, or sections of buildings for residency of pet-owning tenants.

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Cleanliness

HRA Policy

The pet owner shall be responsible for the removal of waste from the exercise area by placing it in a sealed plastic bag and disposing of it in a container provided by the HRA.

The pet owner shall take adequate precautions to eliminate any pet odors within or around the unit and to maintain the unit in a sanitary condition at all times.

Litter box requirements:

Pet owners must promptly dispose of waste from litter boxes and must maintain litter boxes in a sanitary manner.

Litter shall not be disposed of by being flushed through a toilet.

Litter boxes shall be kept inside the resident's dwelling unit.

Alterations to Unit

HRA Policy

Pet owners shall not alter their unit, patio, premises or common areas to create an enclosure for any animal.

Installation of pet doors is prohibited.

Noise

HRA Policy

Pet owners must agree to control the noise of pets so that such noise does not constitute a nuisance to other residents or interrupt their peaceful enjoyment of their housing unit or premises. This includes, but is not limited to loud or continuous barking, howling, whining, biting, scratching, chirping, or other such activities.

Pet Care

HRA Policy

Each pet owner shall be responsible for adequate care, nutrition, exercise and medical attention for their pet.

Each pet owner shall be responsible for appropriately training and caring for their pet to ensure that the pet is not a nuisance or danger to other residents and does not damage HRA property.

No animals may be tethered or chained inside or outside the dwelling unit at any time.

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Responsible Parties

HRA Policy

The pet owner will be required to designate two responsible parties for the care of the pet if the health or safety of the pet is threatened by the death or incapacity of the pet owner, or by other factors that render the pet owner unable to care for the pet.

A resident who cares for another resident's pet must notify the HRA and sign a statement that they agree to abide by all of the pet rules.

Inspections and Repairs

HRA Policy

Except for emergencies, management will not enter the dwelling unit for performance of repairs or inspections where a pet resides unless accompanied for the entire duration of the inspection or repair by the pet owner or responsible person designated by the pet owner. The pet must be held under physical restraint by the pet owner or responsible person until management has completed its tasks. Any delays or interruptions suffered by management in the inspection, maintenance, and upkeep of the premises due to the presence of a pet may be cause for lease termination.

Pets Temporarily on the Premises

HRA Policy

Pets that are not owned by a tenant are not allowed on the premises. Residents are prohibited from feeding or harboring stray animals.

This rule does not apply to visiting pet programs sponsored by a humane society or other non-profit organizations, and approved by the HRA.

Pet Rule Violations

HRA Policy

All complaints of cruelty and all dog bites will be referred to animal control or an applicable agency for investigation and enforcement.

If a determination is made on objective facts supported by written statements, that a resident/pet owner has violated the pet rules, written notice will be served.

The notice will contain a brief statement of the factual basis for the determination and the pet rule(s) that were violated. The notice will also state:

That the pet owner has 10 business days from the effective date of the service of notice to correct the violation or make written request for a meeting to discuss the violation

That the pet owner is entitled to be accompanied by another person of their choice at the meeting

That the pet owner's failure to correct the violation, request a meeting, or appear at a requested meeting may result in initiation of procedures to remove the pet, or to terminate the pet owner's tenancy

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Notice for Pet Removal

HRA Policy

If the pet owner and the HRA are unable to resolve the violation at the meeting or the pet owner fails to correct the violation in the time period allotted by the HRA, the HRA may serve notice to remove the pet.

The notice will contain:

A brief statement of the factual basis for the HRA's determination of the pet rule that has been violated

The requirement that the resident /pet owner must remove the pet within 30 calendar days of the notice

A statement that failure to remove the pet may result in the initiation of termination of tenancy procedures

Pet Removal

HRA Policy

If the death or incapacity of the pet owner threatens the health or safety of the pet, or other factors occur that render the owner unable to care for the pet, the situation will be reported to the responsible party designated by the pet owner.

If the responsible party is unwilling or unable to care for the pet, or if the HRA after reasonable efforts cannot contact the responsible party, the HRA may contact the appropriate state or local agency and request the removal of the pet.

Termination of Tenancy

HRA Policy

The HRA may initiate procedures for termination of tenancy based on a pet rule violation if:

The pet owner has failed to remove the pet or correct a pet rule violation within the time period specified

The pet rule violation is sufficient to begin procedures to terminate tenancy under terms of the lease

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Emergencies

HRA Policy

The HRA will take all necessary steps to ensure that pets that become vicious, display symptoms of severe illness, or demonstrate behavior that constitutes an immediate threat to the health or safety of others, are immediately removed from the premises by referring the situation to the appropriate state or local entity authorized to remove such animals.

If it is necessary for the HRA to place the pet in a shelter facility, the cost will be the responsibility of the pet owner.

If the pet is removed as a result of any aggressive act on the part of the pet, the pet will not be allowed back on the premises.

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PART III: PET DEPOSITS AND FEES IN ELDERLY/DISABLED DEVELOPMENTS

10-III.A. OVERVIEW

This part describes the HRA's policies for pet deposits and fees in elderly, disabled and mixed population developments. Policies governing deposits and fees in general occupancy developments are described in Part IV.

10-III.B. PET DEPOSITS

Payment of Deposit

The HRA may require tenants who own or keep pets in their units to pay a refundable pet deposit. This deposit is in addition to any other financial obligation generally imposed on tenants of the project [24 CFR 5.318(d)(1)].

The maximum amount of pet deposit that may be charged by An HRA on a per dwelling unit basis, is the higher of the total tenant payment (TTP) or such reasonable fixed amount as the HRA may require. The HRA may permit gradual accumulation of the pet deposit by the pet owner [24 CFR 5.318(d)(3)].

The pet deposit is not part of the rent payable by the resident [24 CFR 5.318(d)(5)].

HRA Policy

Pet owners are required to pay a pet deposit of $200.00 in addition to any other required deposits. The deposit must be paid in full before the pet is brought onto the premises.

Refund of Deposit [24 CFR 5.318(d)(1)]

The HRA may use the pet deposit only to pay reasonable expenses directly attributable to the presence of the pet, including (but not limited to) the costs of repairs and replacements to, and fumigation of, the tenant's dwelling unit. The HRA must refund the unused portion of the pet deposit to the tenant within a reasonable time after the tenant moves from the project or no longer owns or keeps a pet in the unit.

HRA Policy

The HRA will refund the pet deposit to the resident, less the costs of any damages caused by the pet to the dwelling unit, within 30 days of move-out or removal of the pet from the unit.

The resident will be billed for any amount that exceeds the pet deposit.

The HRA will provide the resident with a written list of any charges against the pet deposit within 10 business days of the move-out inspection. If the resident disagrees with the amount charged to the pet deposit, the HRA will provide a meeting to discuss the charges.

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10-III.C. OTHER CHARGES

Pet-Related Damages During Occupancy

HRA Policy

All reasonable expenses incurred by the HRA as a result of damages directly attributable to the presence of the pet in the project will be the responsibility of the resident, including:

The cost of repairs and replacements to the resident's dwelling unit

Fumigation of the dwelling unit

Repairs to common areas of the project

The expense of flea elimination shall also be the responsibility of the resident.

If the resident is in occupancy when such costs occur, the resident shall be billed for such costs in accordance with the policies in Section 8-I.F, Maintenance and Damage Charges. Pet deposits will not be applied to the costs of pet-related damages during occupancy.

Charges for pet-related damage are not part of rent payable by the resident.

Pet Waste Removal Charge

The regulations do not address the HRA's ability to impose charges for house pet rule violations. However, charges for violation of HRA pet rules may be treated like charges for other violations of the lease and HRA tenancy rules.

HRA Policy

A separate pet waste removal charge of $10.00 per occurrence will be assessed against pet owners who fail to remove pet waste in accordance with this policy.

Notices of pet waste removal charges will be in accordance with requirements regarding notices of adverse action. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the HRA may not take action for nonpayment of the charge until the conclusion of the grievance process.

Charges for pet waste removal are not part of rent payable by the resident.

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PART IV: PET DEPOSITS AND FEES IN GENERAL OCCUPANCY DEVELOPMENTS

10-IV.A. OVERVIEW

This part describes the HRA's policies for pet deposits and fees for those who reside in general occupancy developments.

10-IV.B. PET DEPOSITS

AN HRA may require a refundable pet deposit to cover additional costs attributable to the pet and not otherwise covered [24 CFR 960.707(b)(1)].

AN HRA that requires a resident to pay a pet deposit must place the deposit in an account of the type required under applicable State or local law for pet deposits, or if there are no such requirements, for rental security deposits, if applicable. The HRA must comply with such laws as to retention of the deposit, interest, and return of the deposit to the resident, and any other applicable requirements [24 CFR 960.707(d)].

Payment of Deposit

HRA Policy

Pet owners are required to pay a pet deposit of $200.00 in addition to any other required deposits. The deposit must be paid in full before the pet is brought onto the premises.

The pet deposit is not part of rent payable by the resident.

Refund of Deposit

HRA Policy

The HRA will refund the pet deposit to the resident, less the costs of any damages caused by the pet to the dwelling unit, within 30 days of move-out or removal of the pet from the unit.

The resident will be billed for any amount that exceeds the pet deposit.

The HRA will provide the resident with a written list of any charges against the pet deposit within 10 business days of the move-out inspection. If the resident disagrees with the amount charged to the pet deposit, the HRA will provide a meeting to discuss the charges.

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10-IV.C. NON-REFUNDABLE NOMINAL PET FEE

HRAs may require payment of a non-refundable nominal pet fee to cover the reasonable operating costs to the development relating to the presence of pets [24 CFR 960.707(b)(1)].

HRA Policy

The HRA does not require pet owners to pay a non-refundable nominal pet fee.

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10-IV.D. OTHER CHARGES

Pet-Related Damages During Occupancy

HRA Policy

All reasonable expenses incurred by the HRA as a result of damages directly attributable to the presence of the pet in the project will be the responsibility of the resident, including:

The cost of repairs and replacements to the resident's dwelling unit

Fumigation of the dwelling unit

Repairs to common areas of the project

The expense of flea elimination shall also be the responsibility of the resident.

If the resident is in occupancy when such costs occur, the resident shall be billed for such costs in accordance with the policies in Section 8-I.F, Maintenance and Damage Charges. Pet deposits will not be applied to the costs of pet-related damages during occupancy.

Charges for pet-related damage are not part of rent payable by the resident.

Pet Waste Removal Charge

The regulations do not address the HRA's ability to impose charges for house pet rule violations. However, charges for violation of HRA pet rules may be treated like charges for other violations of the lease and HRA tenancy rules.

HRA Policy

A separate pet waste removal charge of $10.00 per occurrence will be assessed against pet owners who fail to remove pet waste in accordance with this policy.

Such charges will be due and payable 14 calendar days after billing.

Charges for pet waste removal are not part of rent payable by the resident.

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Chapter 11

COMMUNITY SERVICE

INTRODUCTION

This chapter explains HUD regulations requiring HRAs to implement a community service program for all nonexempt adults living in public housing.

This chapter describes HUD regulations and HRA policies related to these topics in two parts:

Part I: Community Service Requirements. This part describes who is subject to the community service requirement, who is exempt, and HUD's definition of economic self-sufficiency.

Part II: HRA Implementation of Community Service. This part provides HRA policy regarding HRA implementation and program design.

PART I: COMMUNITY SERVICE REQUIREMENT

11-I.A. OVERVIEW

HUD regulations pertaining to the community service requirement are contained in 24 CFR 960 Subpart F (960.600 through 960.609). HRAs and residents must comply with the community service requirement, effective with HRA fiscal years that commenced on or after October 1, 2000. Per 903.7(l)(1)(iii), the HRA Plan must contain a statement of how the HRA will comply with the community service requirement, including any cooperative agreement that the HRA has entered into or plans to enter into.

Community service is the performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self-responsibility in the community. Community service is not employment and may not include political activities [24 CFR 960.601(b)].

In administering community service requirements, the HRA must comply with all nondiscrimination and equal opportunity requirements [24 CFR 960.605(c)(5)].

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11-I.B. REQUIREMENTS

Each adult resident of the HRA, who is not exempt, must [24 CFR 960.603(a)]:

- Contribute 8 hours per month of community service; or
- Participate in an economic self-sufficiency program (as defined in the regulations) for 8 hours per month; or
- Perform 8 hours per month of combined activities (community service and economic self-sufficiency programs).
- The required community service or self-sufficiency activity may be completed 8 hours each month or may be aggregated across a year. Any blocking of hours is acceptable as long as 96 hours is completed by each annual certification of compliance [Notice PIH 2015-12].

Definitions

Exempt Individual [24 CFR 960.601(b), Notice PIH 2015-12]

An *exempt individual* is an adult who:

- Is age 62 years or older
- Is blind or disabled (as defined under section 216[i][l] or 1614 of the Social Security Act), and who certifies that because of this disability s/he is unable to comply with the service provisions
- Is a primary caretaker of such an individual
- Is engaged in work activities

  HRA Policy

  The HRA will consider 30 hours per week as the minimum number of hours needed to qualify for a work activity exemption.

- Is able to meet requirements of being exempted under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the HRA is located, including a state-administered welfare-to-work program
  - This exemption applies to anyone whose characteristics or family situation meet the welfare agency exemption criteria and can be verified.
- Is a member of a family receiving assistance, benefits, or services under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the HRA is located, including a state-administered welfare-to-work program and the supplemental nutrition assistance program (SNAP), and has not been found by the state or other administering entity to be in noncompliance with such program.
- Is a member of a non-public housing over-income family.

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Community Service [24 CFR 960.601(b), Notice PIH 2015-12]

Community service is the performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self responsibility in the community. Community service is not employment and may not include political activities.

Eligible community service activities include, but are not limited to, work at:

- Local public or nonprofit institutions such as schools, head start programs, before or after school programs, child care centers, hospitals, clinics, hospices, nursing homes, recreation centers, senior centers, adult day care programs, homeless shelters, feeding programs, food banks (distributing either donated or commodity foods), or clothes closets (distributing donated clothing)
- Nonprofit organizations serving HRA residents or their children such as: Boy or Girl Scouts, Boys or Girls Club, 4-H clubs, Police Assistance League (PAL), organized children's recreation, mentoring or education programs, Big Brothers or Big Sisters, garden centers, community clean-up programs, beautification programs
- Programs funded under the Older Americans Act, such as Green Thumb, Service Corps of Retired Executives, senior meals programs, senior centers, Meals on Wheels
- Public or nonprofit organizations dedicated to seniors, youth, children, residents, citizens, special-needs populations or with missions to enhance the environment, historic resources, cultural identities, neighborhoods, or performing arts
- HRA housing to improve grounds or provide gardens (so long as such work does not alter the HRA's insurance coverage); or work through resident organizations to help other residents with problems, including serving on the Resident Advisory Board
- Care for the children of other residents so parent may volunteer

HRAs may form their own policy in regards to accepting community services at profit-motivated entities, acceptance of volunteer work performed at homes or offices of general private citizens, and court-ordered or probation-based work.

HRA Policy

Community services at profit-motivated entities, volunteer work performed at homes or offices of general private citizens, and court-ordered or probation-based work will not be considered eligible community service activities.

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Economic Self-Sufficiency Program [24 CFR 5.603(b), Notice PIH 2015-12]

For purposes of satisfying the community service requirement, an *economic self-sufficiency program* is defined by HUD as any program designed to encourage, assist, train, or facilitate economic independence of assisted families or to provide work for such families.

Eligible self-sufficiency activities include, but are not limited to:

- Job readiness or job training
- Training programs through local one-stop career centers, workforce investment boards (local entities administered through the U.S. Department of Labor), or other training providers
- Employment counseling, work placement, or basic skills training
- Education, including higher education (junior college or college), GED classes, or reading, financial, or computer literacy classes
- Apprenticeships (formal or informal)
- English proficiency or English as a second language classes
- Budgeting and credit counseling
- Any other program necessary to ready a participant to work (such as substance abuse or mental health counseling)

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Work Activities [42 U.S.C. 607(d)]

As it relates to an exemption from the community service requirement, *work activities* means:

- Unsubsidized employment
- Subsidized private sector employment
- Subsidized public sector employment
- Work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available
- On-the-job training
- Job search and job readiness assistance
- Community service programs
- Vocational educational training (not to exceed 12 months with respect to any individual)
- Job skills training directly related to employment
- Education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency
- Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate

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Notification Requirements [24 CFR 960.605(c)(2), Notice PIH 2015-12, Notice PIH 2016- 06]

The HRA must give each family a written description of the community service requirement, the process for claiming status as an exempt person, and the process for HRA verification of exempt status. The HRA must also notify the family of its determination identifying the family members who are subject to the service requirement, and the family members who are exempt. In addition, the family must sign a certification, such as Attachment A of Notice PIH 2015-12, that they have received and read the policy and understand that if they are not exempt, failure to comply with the requirement will result in nonrenewal of their lease. The family must also sign a certification at annual reexamination, such as Attachment B of Notice PIH 2015-12, certifying that they understand the requirement.

HRA Policy

The HRA will provide the family with a copy of the Community Service Policy found in Exhibit 11-1 of this chapter, at lease-up, lease renewal, when a family member is determined to be subject to the community service requirement during the lease term, and at any time upon the family's request. The policy will notify the family that self-certification forms are subject to review by the HRA.

On an annual basis, at the time of lease renewal, the HRA will notify the family in writing of the family members who are subject to the community service requirement and the family members who are exempt. If the family includes nonexempt individuals the notice will include a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which they may record the activities they perform and the number of hours contributed. The form will also have a place for a signature by an appropriate official, who will certify to the activities and hours completed.

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11-I.C. DETERMINATION OF EXEMPTION STATUS AND COMPLIANCE [24 CFR 960.605(c)(3)]

The HRA must review and verify family compliance with service requirements annually at least thirty days before the end of the twelve month lease term. The policy for documentation and verification of compliance with service requirements may be found at Section 11-I.D., Documentation and Verification.

HRA Policy

Where the lease term does not coincide with the effective date of the annual reexamination, the HRA will change the effective date of the annual reexamination to coincide with the lease term. In making this change, the HRA will ensure that the annual reexamination is conducted within 12 months of the last annual reexamination.

Annual Determination

Determination of Exemption Status

An exempt individual is excused from the community service requirement [24 CFR 960.603(a)].

HRA Policy

At least 60 days prior to lease renewal, the HRA will review and verify the exemption status of all adult family members. This verification will only be done on an annual basis unless the family reports a change or the HRA has reason to believe that an individual's exemption status has changed. For individuals who are exempt because they are 62 years of age and older, verification of exemption status will be done only at the initial examination.

Upon completion of the verification process, the HRA will notify the family of its determination in accordance with the policy in Section 11-I.B., Notification Requirements.

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Determination of Compliance

The HRA must review resident family compliance with service requirements annually at least 30 days before the end of the twelve month lease term [24 CFR 960.605(c)(3)]. As part of this review, the HRA must verify that any family member that is not exempt from the community service requirement has met their service obligation.

HRA Policy

Approximately 60 days prior to the end of the lease term, the HRA will provide written notice requiring the family to submit documentation that all subject family members have complied with the service requirement. The family will have 10 business days to submit the HRA required documentation form(s).

If the family fails to submit the required documentation within the required timeframe, or HRA approved extension, the subject family members will be considered noncompliant with community service requirements, and notices of noncompliance will be issued pursuant to the policies in Section 11-I.E., Noncompliance.

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Change in Status between Annual Determinations

HRA Policy

Exempt to Nonexempt Status

If an exempt individual becomes nonexempt during the 12-month lease term, it is the family's responsibility to report this change to the HRA within 10 business days.

Within 10 business days of a family reporting such a change, or the HRA determining such a change is necessary, the HRA will provide written notice of the effective date of the requirement, a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which the family member may record the activities performed and number of hours contributed.

The effective date of the community service requirement will be the first of the month following 30-day notice.

Determination of Initial Compliance

When an adult family member becomes subject to community service, they must perform 8 hours of community service for the months they are subject to the requirement before the end of the lease term (anniversary date).

Example 1: Alberto Jones turns 18 on 5/10/15 and is not exempt from the community service requirement. His community service requirement begins on 6/1/15, and his initial compliance is reviewed before the end of the lease term (anniversary date), which is 11/30/15.

- Alberto must perform 6 months of community service in his initial compliance period, before the end of the lease term (anniversary date).

Example 2: Lisa Dewhurst leaves her job on 9/20/14 and is not exempt from the community service requirement. Her community service requirement begins on 10/1/14, and her initial compliance is reviewed before the end of the lease term (anniversary date), which is 6/30/15.

- Ms. Dewhurst must perform 9 months of community service in her initial compliance period, before the end of the lease term (anniversary date).

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Nonexempt to Exempt Status

If a nonexempt person becomes exempt during the twelve month lease term, it is the family's responsibility to report this change to the HRA within 10 business days. Any claim of exemption will be verified by the HRA in accordance with the policy at 11-I.D., Documentation and Verification of Exemption Status.

Within 10 business days of a family reporting such a change, or the HRA determining such a change is necessary, the HRA will provide the family written notice that the family member is no longer subject to the community service requirement, if the HRA is able to verify the exemption.

The exemption will be effective immediately.

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11-I.D. DOCUMENTATION AND VERIFICATION [24 CFR 960.605(c)(4), 960.607, Notice PIH 2016-08]

The HRA must retain reasonable documentation of service requirement performance or exemption in participant files.

Documentation and Verification of Exemption Status

HRA Policy

All family members who claim they are exempt from the community service requirement will be required to sign the community service exemption certification form found in Exhibit 11-3. The HRA will provide a completed copy to the family and will keep a copy in the tenant file.

The HRA will verify that an individual is exempt from the community service requirement by following the verification hierarchy and documentation requirements in Chapter 7.

The HRA makes the final determination whether or not to grant an exemption from the community service requirement. If a resident does not agree with the HRA's determination, s/he can dispute the decision through the HRA's grievance procedures (see Chapter 14).

Documentation and Verification of Compliance

At each regularly scheduled reexamination, each nonexempt family member presents a signed standardized certification form developed by the HRA of community service and self-sufficiency activities performed over the last 12 months [Notice PIH 2015-12].

If qualifying community service activities are administered by an organization other than the HRA, a family member who is required to fulfill a service requirement must provide documentation required by the HRA. The HRA may require a self-certification or certification from a third party [24 CFR 960.607].

If the HRA accepts self-certification of compliance with the community service requirement, it must provide a form which includes a statement that the client performed the required hours, contact information for the community service provider, a description of activities performed, and dates of service.

If the HRA accepts self-certification, it must validate a sample of certifications through third-party documentation. The HRA must notify families that self-certification forms are available and that a sample of self-certifications will be validated.

HUD strongly encourages HRAs to investigate community service compliance when there are questions of accuracy.

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HRA Policy

Each individual who is subject to the community service requirement will be required to record their community service or self-sufficiency activities and the number of hours contributed on the required form. The certification form will also include places for signatures and phone numbers of supervisors, instructors, and counselors certifying to the number of hours contributed.

Families will be required to submit the documentation to the HRA, upon request by the HRA, at least annually.

If the HRA has reasonable cause to believe that the certification provided by the family is false or fraudulent, the HRA has the right to require additional third-party verification.

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11-I.E. NONCOMPLIANCE

Noncompliant Residents

The lease specifies that it is renewed automatically for all purposes, unless the family fails to comply with the community service requirement and families determined to be over-income for 24 consecutive months. Violation of the service requirement is grounds for nonrenewal of the lease at the end of the twelve month lease term, but not for termination of tenancy during the course of the twelve month lease term [24 CFR 960.603(b)].

HRAs may not evict a family due to CSSR noncompliance. However, if HRA finds a tenant is noncompliant with CSSR, the HRA must provide written notification to the tenant of the noncompliance which must include:

- A brief description of the finding of non-compliance with CSSR.
- A statement that the HRA will not renew the lease at the end of the current 12-month lease term unless the tenant enters into a written work-out agreement with the HRA or the family provides written assurance that is satisfactory to the HRA explaining that the tenant or other noncompliant resident no longer resides in the unit. Such written work-out agreement must include the means through which a noncompliant family member will comply with the CSSR requirement [24 CFR 960.607(c), Notice PIH 2015-12].

The notice must also state that the tenant may request a grievance hearing on the HRA's determination, in accordance with the HRA's grievance procedures, and that the tenant may exercise any available judicial remedy to seek timely redress for the HRA's nonrenewal of the lease because of the HRA's determination.

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HRA Policy

The notice of noncompliance will be sent at least 45 days prior to the end of the lease term.

The family will have 10 business days from the date of the notice of noncompliance to enter into a written work-out agreement to cure the noncompliance over the 12-month term of the new lease, provide documentation that the noncompliant resident no longer resides in the unit, or to request a grievance hearing.

If the family reports that a noncompliant family member is no longer residing in the unit, the family must provide documentation that the family member has actually vacated the unit before the HRA will agree to continued occupancy of the family. Documentation must consist of a certification signed by the head of household as well as evidence of the current address of the family member that previously resided with them.

If the family does not request a grievance hearing, or does not take either corrective action required by the notice of noncompliance within the required 10 business day timeframe, the HRA will terminate tenancy in accordance with the policies in Section 13-IV.D.

Continued Noncompliance and Enforcement Documentation [24 CFR 960.607(b)]

Should a family member refuse to sign a written work-out agreement, or fail to comply with the terms of the work-out agreement, HRAs are required to initiate termination of tenancy proceedings at the end of the current 12-month lease (see 24 CFR 966.53(c)) for failure to comply with lease requirements. When initiating termination of tenancy proceedings, the HRA will provide the following procedural safeguards:

- Adequate notice to the tenant of the grounds for terminating the tenancy and for non-renewal of the lease;
- Right of the tenant to be represented by counsel;
- Opportunity for the tenant to refute the evidence presented by the HRA, including the right to confront and cross-examine witnesses and present any affirmative legal or equitable defense which the tenant may have; and,
- A decision on the merits.

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HRA Policy

Notices of continued noncompliance will be sent at least 30 days prior to the end of the lease term and will also serve as the family's termination notice. The notice will meet the requirements for termination notices described in Section 13-IV.D, Form, Delivery, and Content of the Notice.

The family will have 10 business days from the date of the notice of non-compliance to provide documentation that the noncompliant resident no longer resides in the unit, or to request a grievance hearing.

If the family reports that a noncompliant family member is no longer residing in the unit, the family must provide documentation that the family member has actually vacated the unit before the HRA will agree to continued occupancy of the family. Documentation must consist of a certification signed by the head of household as well as evidence of the current address of the noncompliant family member that previously resided with them.

If the family does not request a grievance hearing, or provide such documentation within the required 10 business day timeframe, the family's lease and tenancy will automatically terminate at the end of the current lease term without further notice.

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PART II: IMPLEMENTATION OF COMMUNITY SERVICE

11-II.A. OVERVIEW

Each HRA must develop a policy for administration of the community service and economic self-sufficiency requirements for public housing. It is in the HRA's best interests to develop a viable, effective community service program, to provide residents the opportunity to engage in the community and to develop competencies.

HRA Implementation of Community Service

The HRA may not substitute any community service or self-sufficiency activities performed by residents for work ordinarily performed by HRA employees, or replace a job at any location where residents perform activities to satisfy the service requirement [24 CFR 960.609].

HRA Policy

The HRA will notify its insurance company if residents will be performing community service at the HRA. In addition, the HRA will ensure that the conditions under which the work is to be performed are not hazardous.

If a disabled resident certifies that s/he is able to perform community service, the HRA will ensure that requests for reasonable accommodation are handled in accordance with the policies in Chapter 2.

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HRA Program Design

The HRA may administer qualifying community service or economic self-sufficiency activities directly, or may make community service activities available through a contractor, or through partnerships with qualified organizations, including resident organizations, and community agencies or institutions [24 CFR 960.605(b)].

HRA Policy

The HRA will attempt to provide the broadest choice possible to residents as they choose community service activities.

The HRA's goal is to design a service program that gives residents viable opportunities to become involved in the community and to gain competencies and skills. The HRA will work with resident organizations and community organizations to design, implement, assess and recalibrate its community service program.

The HRA will make every effort to identify volunteer opportunities throughout the community, especially those in proximity to public housing developments. To the greatest extent possible, the HRA will provide names and contacts at agencies that can provide opportunities for residents, including persons with disabilities, to fulfill their community service obligations.

Any written agreements or partnerships with contractors and/or qualified organizations, including resident organizations, are described in the HRA Plan.

The HRA will provide in-house opportunities for volunteer work or self-sufficiency programs when possible.

When the HRA has a ROSS program, a ROSS Service Coordinator, or an FSS program, the HRA will coordinate individual training and service plans (ITSPs) with the community service requirement. Regular meetings with HRA coordinators will satisfy community service activities and HRA coordinators will verify community service hours within individual monthly logs.

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EXHIBIT 11-1: COMMUNITY SERVICE AND SELF-SUFFICIENCY POLICY

A. Background

The Quality Housing and Work Responsibility Act of 1998 requires that all nonexempt (see definitions) public housing adult residents (18 or older) contribute eight (8) hours per month of community service (volunteer work) or participate in eight (8) hours of training, counseling, classes or other activities that help an individual toward self-sufficiency and economic independence. This is a requirement of the public housing lease.

B. Definitions

Community Service – community service activities include, but are not limited to, work at:

- Local public or nonprofit institutions such as schools, head start programs, before or after school programs, child care centers, hospitals, clinics, hospices, nursing homes, recreation centers, senior centers, adult day care programs, homeless shelters, feeding programs, food banks (distributing either donated or commodity foods), or clothes closets (distributing donated clothing)
- Nonprofit organizations serving HRA residents or their children such as: Boy or Girl Scouts, Boys or Girls Club, 4-H clubs, Police Assistance League (PAL), organized children's recreation, mentoring or education programs, Big Brothers or Big Sisters, garden centers, community clean-up programs, beautification programs
- Programs funded under the Older Americans Act, such as Green Thumb, Service Corps of Retired Executives, senior meals programs, senior centers, Meals on Wheels
- Public or nonprofit organizations dedicated to seniors, youth, children, residents, citizens, special-needs populations or with missions to enhance the environment, historic resources, cultural identities, neighborhoods, or performing arts
- HRA housing to improve grounds or provide gardens (so long as such work does not alter the HRA's insurance coverage); or work through resident organizations to help other residents with problems, including serving on the Resident Advisory Board
- Care for the children of other residents so parent may volunteer

Note: Political activity is excluded.

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Self-Sufficiency Activities – self-sufficiency activities include, but are not limited to:

- Job readiness or job training
- Training programs through local one-stop career centers, workforce investment boards (local entities administered through the U.S. Department of Labor), or other training providers
- Employment counseling, work placement, or basic skills training
- Education, including higher education (junior college or college), or reading, financial, or computer literacy classes
- Apprenticeships (formal or informal)
- English proficiency or English as a second language classes
- Budgeting and credit counseling
- Any other program necessary to ready a participant to work (such as substance abuse or mental health counseling)

Exempt Adult – an adult member of the family who meets any of the following criteria:

- Is 62 years of age or older
- Is blind or a person with disabilities (as defined under section 216[i][l] or 1614 of the Social Security Act), and who certifies that because of this disability they are unable to comply with the service provisions, or is the primary caretaker of such an individual
- Is engaged in *work activities*
- Is able to meet requirements under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the HRA is located, including a state-administered welfare-to-work program; or
- Is a member of a family receiving assistance, benefits, or services under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the HRA is located, including a state-administered welfare-to-work program and the supplemental nutrition assistance program (SNAP), and has not been found by the state or other administering entity to be in noncompliance with such program
- Is a member of a non-public housing over-income family.

HRAs can use reasonable guidelines in clarifying the work activities in coordination with TANF, as appropriate.

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Work Activities – as it relates to an exemption from the community service requirement, *work activities* means:

- Unsubsidized employment
- Subsidized private sector employment
- Subsidized public sector employment
- Work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available
- On-the-job training
- Job search and job readiness assistance
- Community service programs
- Vocational educational training (not to exceed 12 months with respect to any individual)
- Job skills training directly related to employment
- Education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency
- Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate
- Provision of child care services to an individual who is participating in a community service program

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C. Requirements of the Program

1. The eight (8) hours per month may be either volunteer work or self-sufficiency program activity, or a combination of the two.
2. At least eight (8) hours of activity must be performed each month, or may be aggregated across a year. Any blocking of hours is acceptable as long as long as 96 hours is completed by each annual certification of compliance.
3. Family obligation:
    - At lease execution, all adult members (18 or older) of a public housing resident family must:
        - Sign a certification (Attachment A) that they have received and read this policy and understand that if they are not exempt, failure to comply with the community service requirement will result in a nonrenewal of their lease; and
        - Declare if they are exempt. If exempt, they must complete the Exemption Form (Exhibit 11-3) and provide documentation of the exemption.
    - Upon written notice from the HRA, nonexempt family members must present complete documentation of activities performed during the applicable lease term. This documentation will include places for signatures of supervisors, instructors, or counselors, certifying the number of hours.
    - If a family member is found to be noncompliant at the end of the 12-month lease term, they, and the head of household, will be required to sign an agreement with the housing authority to make up the deficient hours over the next twelve (12) month period, or the lease will be terminated.
    - At annual reexamination, the family must also sign a certification certifying that they understand the community service requirement.
4. Change in exempt status:
    - If, during the twelve (12) month lease period, a nonexempt person becomes exempt, it is their responsibility to report this to the HRA and provide documentation of exempt status.
    - If, during the twelve (12) month lease period, an exempt person becomes nonexempt, it is their responsibility to report this to the HRA. Upon receipt of this information the HRA will provide the person with the appropriate documentation form(s) and a list of agencies in the community that provide volunteer and/or training opportunities.

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D. Authority Obligation

1. To the greatest extent possible and practicable, the HRA will:
   - Provide names and contacts at agencies that can provide opportunities for residents, including residents with disabilities, to fulfill their community service obligations.
   - Provide in-house opportunities for volunteer work or self-sufficiency activities.
2. The HRA will provide the family with a copy of this policy, and all applicable exemption verification forms and community service documentation forms, at lease-up, lease renewal, when a family member becomes subject to the community service requirement during the lease term, and at any time upon the family's request.
3. Although exempt family members will be required to submit documentation to support their exemption, the HRA will verify the exemption status in accordance with its verification policies. The HRA will make the final determination as to whether or not a family member is exempt from the community service requirement. Residents may use the HRA's grievance procedure if they disagree with the HRA's determination.
4. Noncompliance of family member:
   - At least thirty (30) days prior to the end of the 12-month lease term, the HRA will begin reviewing the exempt or nonexempt status and compliance of family members;
   - If, at the end of the initial 12-month lease term under which a family member is subject to the community service requirement, the HRA finds the family member to be noncompliant, the HRA will not renew the lease unless:
     – The head of household and any other noncompliant resident enter into a written agreement with the HRA, to make up the deficient hours over the next twelve (12) month period; or
     – The family provides written documentation satisfactory to the HRA that the noncompliant family member no longer resides in the unit.
   - If, at the end of the next 12-month lease term, the family member is still not compliant, a 30-day notice to terminate the lease will be issued and the entire family will have to vacate, unless the family provides written documentation satisfactory to the HRA that the noncompliant family member no longer resides in the unit;
   - The family may use the HRA's grievance procedure to dispute the lease termination.

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All adult family members must sign and date below, certifying that they have read and received a copy of this Community Service and Self-Sufficiency Policy.

Resident	Date
Resident	Date
Resident	Date
Resident	Date

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EXHIBIT 11-2: DEFINITION OF A PERSON WITH A DISABILITY UNDER SOCIAL SECURITY ACTS 216(i)(l) and Section 1416(excerpt) FOR PURPOSES OF EXEMPTION FROM COMMUNITY SERVICE

Social Security Act:

216(i)(1): Except for purposes of sections 202(d), 202(e), 202(f), 223, and 225, the term "disability" means (A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, or (B) blindness; and the term "blindness" means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of this paragraph as having a central visual acuity of 20/200 or less.

Section 1416 (excerpt):

SEC. 1614. *[42 U.S.C. 1382c]* (a)(1) For purposes of this title, the term "aged, blind, or disabled individual" means an individual who—

> (A) is 65 years of age or older, is blind (as determined under paragraph (2)), or is disabled (as determined under paragraph (3)), and
>
> (B)(i) is a resident of the United States, and is either (I) a citizen or (II) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 212(d)(5) of the Immigration and Nationality Act), or
>
> (ii) is a child who is a citizen of the United States and, who is living with a parent of the child who is a member of the Armed Forces of the United States assigned to permanent duty ashore outside the United States.
>
> (2) An individual shall be considered to be blind for purposes of this title if he has central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of the first sentence of this subsection as having a central visual acuity of 20/200 or less. An individual shall also be considered to be blind for purposes of this title if he is blind as defined under a State plan approved under title X or XVI as in effect for October 1972 and received aid under such plan (on the basis of blindness) for December 1973, so long as he is continuously blind as so defined.
>
> (3)(A) Except as provided in subparagraph (C), an individual shall be considered to be disabled for purposes of this title if he is unable 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 twelve months.

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EXHIBIT 11-3: HRA DETERMINATION OF EXEMPTION FOR COMMUNITY SERVICE

Family: _____

Adult family member: _____

This adult family member meets the requirements for being exempted from the HRA's community service requirement for the following reason:

❒ 62 years of age or older *(Documentation of age in file)*

❒ Is a person with disabilities and self-certifies below that they are unable to comply with the community service requirement (*Documentation of HUD definition of disability in file)*

Tenant certification: I am a person with disabilities and am unable to comply with the community service requirement.

_____ _____
Signature of Family Member Date

❒ Is the primary caretaker of such an individual in the above category *(Documentation in file)*

❒ Is engaged in work activities *(Verification in file)*

❒ Is able to meet requirements under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the HRA is located, including a state-administered welfare-to-work program (*Documentation in file*)

❒ Is a member of a family receiving assistance, benefits, or services under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the HRA is located, including a state-administered welfare-to-work program and the supplemental nutrition assistance program (SNAP), and has not been found by the state or other administering entity to be in noncompliance with such program *(Documentation in file)*

_____ _____
Signature of Family Member Date

_____ _____
Signature of HRA Official Date

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EXHIBIT 11-4: CSSR WORK-OUT AGREEMENT

Date: _____

Noncompliant Adult: _____

Adult family member: _____

Community Service & Self-Sufficiency Requirement (CSSR):

Under Section 12 of the U.S. Housing Act, the _____ (insert name of HRA) is required to enforce the community service and self-sufficiency requirement (CSSR). Under the CSSR, each nonexempt adult family member residing in public housing must perform 8 hours per month of community service or self sufficiency activities.

Noncompliance: _____ (insert name of HRA) has found that the nonexempt individual named above is in noncompliance with the CSSR. This work-out agreement is the HRA's written notification to you of this noncompliance.

Our records show that for the most recent lease term you were required to perform _____hours of CSSR activities. However, there were _____ hours of verified CSSR activities. Therefore, you are in noncompliance for _____ hours.

_____ (insert name of HRA) will not renew the lease at the end of the current 12-month lease term unless the head of household and noncompliant adult sign a written work-out agreement with _____ (insert name of HRA) or the family provides written assurance that is satisfactory to _____ (insert name of HRA) explaining that the noncompliant adult no longer resides in the unit. The regulations require that the work-out agreement include the means through which a noncompliant family member will comply with the CSSR requirement. [24 CFR 960.607(c), Notice PIH 2015-12]. The terms of the CSSR work-out agreement are on the reverse side of this page.

Enforcement: Should a family member refuse to sign this CSSR work-out agreement, or fail to comply with the terms of this CSSR work-out agreement, or fail to provide satisfactory written assurance that the noncompliant adult no longer resides in the unit, _____ (insert name of HRA) is required to initiate termination of tenancy proceedings at the end of the current 12-month lease [24 CFR 966.53(c)].

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Terms of CSSR Work-Out Agreement

Noncompliant Adult: _____

Please check one of the below boxes:

❒ I [head of household or spouse/cohead] certify that the noncompliant adult named above no longer resides in the unit. [Verification attached.]

❒ I, the noncompliant adult named above, agree to complete _____ hours in the upcoming 12-month lease term. These hours include the _____hours not fulfilled in the most previous lease term, plus the 96 hours for the upcoming lease term.

Below is a description of means through which I will comply with the CSSR requirement:

	Description of Activity	Number of Hours
1.		
2.		
3.		
4.		
5.		
	Total Hours	

SIGNED AND ATTESTED THIS DATE

Signature: _____ *Date:* _____
Head of Household

Signature: _____ *Date:* _____
Noncompliant Adult, if other than Head of Household

Signature: _____ *Date:* _____
HRA Official

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Chapter 12

TRANSFER POLICY

INTRODUCTION

This chapter explains the HRA's transfer policy, based on HUD regulations, HUD guidance, and HRA policy decisions.

This chapter describes HUD regulations and HRA policies related to transfers in four parts:

Part I: Emergency Transfers. This part describes emergency transfers, emergency transfer procedures, and payment of transfer costs.

Part II: HRA Required Transfers. This part describes types of transfers that may be required by the HRA, notice requirements, and payment of transfer costs.

Part III: Transfers Requested by Residents. This part describes types of transfers that may be requested by residents, eligibility requirements, security deposits, payment of transfer costs, and handling of transfer requests.

Part IV: Transfer Processing. This part describes creating a waiting list, prioritizing transfer requests, the unit offer policy, examples of good cause, deconcentration, transferring to another development and reexamination.

The HRA may require the tenant to move from the unit under some circumstances. There are also emergency circumstances under which alternate accommodations for the tenant must be provided, that may or may not require a transfer.

The tenant may also request a transfer, such as a request for a new unit as a reasonable accommodation.

The HRA must have specific policies in place to deal with acceptable transfer requests.

PART I: EMERGENCY TRANSFERS

12-I.A. OVERVIEW

HUD categorizes certain situations that require emergency transfers [PH Occ GB, p. 147]. The emergency transfer differs from a typical transfer in that it requires immediate action by the HRA.

In the case of a genuine emergency, it may be unlikely that the HRA will have the time or resources to immediately transfer a tenant. Due to the immediate need to vacate the unit, placing the tenant on a transfer waiting list would not be appropriate. Under such circumstances, if an appropriate unit is not immediately available, the HRA should find alternate accommodations for the tenant until the emergency passes, or a permanent solution, i.e., return to the unit or transfer to another unit, is possible.

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12-I.B. EMERGENCY TRANSFERS

If the dwelling unit is damaged to the extent that conditions are created which are hazardous to life, health, or safety of the occupants, the HRA must offer standard alternative accommodations, if available, where necessary repairs cannot be made within a reasonable time [24 CFR 966.4(h)].

VAWA requires the HRA to adopt an emergency transfer plan for victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

HRA Policy

The following are considered emergency circumstance warranting an immediate transfer of the tenant or family:

Maintenance conditions in the resident's unit, building or at the site that pose an immediate, verifiable threat to the life, health, or safety of the resident or family members that cannot be repaired or abated within 24 hours. Examples of such unit or building conditions would include: a gas leak, no heat in the building during the winter, no water, toxic contamination, and serious water leaks.

A verified incident of domestic violence, dating violence, sexual assault, stalking, or human trafficking. For instances of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the threat may be established through documentation outlined in section 16-VII.D. In order to request the emergency transfer, the requestor must submit an emergency transfer request form (HUD-5383) (Exhibit 16-4 of this ACOP), although, the HRA may waive this requirement in order to expedite the transfer process.

The HRA will immediately process requests for transfers due to domestic violence, dating violence, sexual assault, stalking, or human trafficking. The HRA will allow a tenant to make an internal emergency transfer under VAWA when a safe unit is immediately available. The HRA defines *immediately available* as a vacant unit, that is ready for move-in within a reasonable period of time, not to exceed 30 days. If an internal transfer to a safe unit is not immediately available, the HRA will assist the resident in seeking an external emergency transfer either within or outside the HRA's programs.

The HRA has adopted an emergency transfer plan, which is included as Exhibit 16-3 to this plan.

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12-I.C. EMERGENCY TRANSFER PROCEDURES

HRA Policy

Any condition that would produce an emergency work order would qualify a family for an emergency transfer if the repairs cannot be made within 24 hours.

If the transfer is necessary because of maintenance conditions, and an appropriate unit is not immediately available, the HRA will provide temporary accommodations to the tenant by arranging for temporary lodging at a hotel or similar location. The family is entitled to alternative accommodations even if the tenant, household member, guest, or other covered person is responsible for the damage that caused the hazard or if a family is in the process of being evicted.

If the conditions that required the transfer cannot be repaired, or the condition cannot be repaired in a reasonable amount of time, the HRA will transfer the resident to the first available and appropriate unit after the temporary relocation.

Emergency transfers that arise due to maintenance conditions are mandatory for the tenant.

If the emergency transfer is necessary to protect a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the HRA will follow procedures outlined in Exhibit 16-4.

12-I.D. COSTS OF TRANSFER

HRA Policy

The HRA will bear the reasonable costs of temporarily accommodating the tenant and of long-term transfers, if any, due to maintenance conditions.

The reasonable costs of transfers include the cost of packing, moving, and unloading.

Rather than reimbursing the family for eligible, reasonable expenses related to the move, the HRA will either complete the move, or make arrangements and pay for the move.

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PART II: HRA REQUIRED TRANSFERS

12-II.A. OVERVIEW

HUD regulations regarding transfers are minimal, leaving it up to the HRA to develop reasonable transfer policies.

The HRA may require that a resident transfer to another unit under some circumstances. For example, the HRA may require a resident to transfer to make an accessible unit available to a disabled family. The HRA may also transfer a resident in order to maintain occupancy standards based on family composition. Finally, An HRA may transfer residents in order to demolish or renovate the unit.

A transfer that is required by the HRA is an adverse action, and is subject to the notice requirements for adverse actions [24 CFR 966.4(e)(8)(i)].

12-II.B. TYPES OF HRA REQUIRED TRANSFERS

HRA Policy

The types of transfers that may be required by the HRA, include, but are not limited to, transfers to make an accessible unit available for a disabled family, transfers to comply with occupancy standards, transfers for demolition, disposition, revitalization, or rehabilitation, and emergency transfers as discussed in Part I of this chapter.

Transfers required by the HRA are mandatory for the tenant. The family will be given 15 days to vacate the unit after receipt of written notice.

Transfers to Make an Accessible Unit Available

When a family is initially given an accessible unit, but does not require the accessible features, the HRA may require the family to agree to move to a non-accessible unit when it becomes available [24 CFR 8.27(b)].

HRA Policy

When a non-accessible unit becomes available, the HRA will transfer a family living in an accessible unit that does not require the accessible features, to an available unit that is not accessible. The HRA may wait until a disabled resident requires the accessible unit before transferring the family that does not require the accessible features out of the accessible unit.

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Occupancy Standards Transfers

The HRA may require a resident to move when a reexamination indicates that there has been a change in family composition, and the family is either overcrowded or over-housed according to HRA policy [24 CFR 960.257(a)(4)]. On some occasions, the HRA may initially place a resident in an inappropriately sized unit at lease-up, where the family is over-housed, to prevent vacancies. The public housing lease must include the tenant's agreement to transfer to an appropriately sized unit based on family composition [24 CFR 966.4(c)(3)].

HRA Policy

The HRA will transfer a family when the family size has changed and the family is now too large (overcrowded) or too small (over-housed) for the unit occupied.

For purposes of the transfer policy, overcrowded and over-housed are defined as follows:

Overcrowded: the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides, according to the chart in Section 5-I.B.

Over-housed: the family no longer qualifies for the bedroom size in which they are living based on the HRA's occupancy standards as described in Section 5-I.B.

The HRA may also transfer a family who was initially placed in a unit in which the family was over-housed to a unit of an appropriate size based on the HRA's occupancy standards, when the HRA determines there is a need for the transfer.

The HRA may elect not to transfer an over-housed family in order to prevent vacancies.

A family that is required to move because of family size will be advised by the HRA that a transfer is necessary and that the family has been placed on the transfer list.

Families that request and are granted an exception to the occupancy standards (for either a larger or smaller size unit) in accordance with the policies in Section 5-I.C. will only be required to transfer if it is necessary to comply with the approved exception.

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Demolition, Disposition, Revitalizations, or Rehabilitation, Including Rental Assistance Demonstration (RAD) Conversions Transfers

These transfers permit the HRA to demolish, sell or do major capital or rehabilitation work at a building site [PH Occ GB, page 148].

HRA Policy

The HRA will relocate a family when the unit or site in which the family lives is undergoing major rehabilitation that requires the unit to be vacant, or the unit is being disposed of or demolished. The HRA's relocation plan may or may not require transferring affected families to other available public housing units.

If the relocation plan calls for transferring public housing families to other public housing units, affected families will be placed on the transfer list.

In cases of revitalization or rehabilitation, the family may be offered a temporary relocation if allowed under Relocation Act provisions, and may be allowed to return to their unit, depending on contractual and legal obligations, once revitalization or rehabilitation is complete.

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12-II.C. ADVERSE ACTION [24 CFR 966.4(e)(8)(i)]

AN HRA required transfer is an adverse action. As an adverse action, the transfer is subject to the requirements regarding notices of adverse actions. If the family requests a grievance hearing within the required timeframe, the HRA may not take action on the transfer until the conclusion of the grievance process.

12-II.D. COST OF TRANSFER

HRA Policy

The HRA will bear the reasonable costs of transfers that the HRA requires, except that residents will be required to bear the cost of occupancy standards transfers.

The reasonable costs of transfers include the cost of packing, moving, and unloading.

Rather than reimbursing the family for eligible, reasonable expenses related to the move, the HRA will either complete the move, or make arrangements and pay for the move.

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PART III: TRANSFERS REQUESTED BY TENANTS

12-III.A. OVERVIEW

HUD provides the HRA with discretion to consider transfer requests from tenants. The only requests that the HRA is required to consider are requests for reasonable accommodation. All other transfer requests are at the discretion of the HRA. To avoid administrative costs and burdens, this policy limits the types of requests that will be considered by the HRA.

Some transfers that are requested by tenants should be treated as higher priorities than others due to the more urgent need for the transfer.

12-III.B. TYPES OF RESIDENT REQUESTED TRANSFERS

HRA Policy

The types of requests for transfers that the HRA will consider are limited to requests for transfers to alleviate a serious or life-threatening medical condition, transfers due to a threat of physical harm or criminal activity, reasonable accommodation, transfers to a different unit size as long as the family qualifies for the unit according to the HRA's occupancy standards, and transfers to a location closer to employment. No other transfer requests will be considered by the HRA.

The HRA will consider the following as high priority transfer requests:

When a transfer is needed to alleviate verified medical problems of a serious or life-threatening nature

When there has been a verified threat of physical harm or criminal activity. Such circumstances may, at the HRA's discretion, include an assessment by law enforcement indicating that a family member is the actual or potential victim of a criminal attack, retaliation for testimony, or a hate crime.

When a family requests a transfer as a reasonable accommodation. Examples of a reasonable accommodation transfer include, but are not limited to, a transfer to a first-floor unit for a person with mobility impairment, or a transfer to a unit with accessible features

The HRA will consider the following as regular priority transfer requests:

When a family requests a larger bedroom size unit even though the family does not meet the HRA's definition of overcrowded, as long as the family meets the HRA's occupancy standards for the requested size unit

When the head of household or spouse is employed 25 miles or more from the public housing unit, has no reliable transportation, and public transportation is not adequate

Transfers requested by the tenant are considered optional for the tenant.

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12-III.C. ELIGIBILITY FOR TRANSFER

Transferring residents do not have to meet the admission eligibility requirements pertaining to income or preference. However, the HRA may establish other standards for considering a transfer request [PH Occ GB, p. 150].

HRA Policy

Except where reasonable accommodation is being requested, the HRA will only consider transfer requests from residents that meet the following requirements:

Have not engaged in criminal activity that threatens the health and safety of residents and staff

Owe no back rent or other charges, or have a pattern of late payment

Have no housekeeping lease violations or history of damaging property

Can get utilities turned on in the name of the head of household (applicable only to properties with tenant-paid utilities)

A resident with housekeeping standards violations will not be transferred until the resident passes a follow-up housekeeping inspection.

Exceptions to the good record requirement may be made when it is to the HRA's advantage to make the transfer.

Exceptions will also be made when the HRA determines that a transfer is necessary to protect the health or safety of a resident who is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, and who provides documentation of abuse in accordance with section 16-VII.D of this ACOP. Tenants who are not in good standing may still request an emergency transfer under VAWA.

If a family requested to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines, the family will not be eligible to transfer to a larger size unit for a period of two years from the date of admission, unless they have a change in family size or composition, or it is needed as a reasonable accommodation.

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12-III.D. SECURITY DEPOSITS

HRA Policy

When a family transfers from one unit to another, the HRA will transfer their security deposit to the new unit. The tenant will be billed for any maintenance or others charges due for the "old" unit.

12-III.E. COST OF TRANSFER

The HRA must pay moving expenses to transfer a resident with a disability to an accessible unit as an accommodation for the resident's disability [Notice PIH 2010-26].

HRA Policy

The resident will bear all of the costs of transfer s/he requests. However, the HRA will bear the transfer costs when the transfer is done as a reasonable accommodation.

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12-III.F. HANDLING OF REQUESTS

HRA Policy

Residents requesting a transfer to another unit or development will be required to submit a written request for transfer.

In order to request the emergency transfer under VAWA, the resident will be required to submit an emergency transfer request form (HUD-5383) (Exhibit 16-4 of this ACOP). The HRA may, on a case-by-case basis, waive this requirement and accept a verbal request in order to expedite the transfer process. If the HRA accepts an individual's statement, the HRA will document acceptance of the statement in the individual's file in accordance with 16-VII.D. of this ACOP. Transfer requests under VAWA will be processed in accordance with the HRA's Emergency Transfer Plan (Exhibit 16-3). In case of a reasonable accommodation transfer, the HRA will encourage the resident to make the request in writing using a reasonable accommodation request form. However, the HRA will consider the transfer request any time the resident indicates that an accommodation is needed whether or not a formal written request is submitted.

The HRA will respond by approving the transfer and putting the family on the transfer list, by denying the transfer, or by requiring more information or documentation from the family, such as documentation of domestic violence, dating violence, sexual assault, stalking, or human trafficking in accordance with section 16-VII.D of this ACOP.

If the family does not meet the "good record" requirements under Section 12-III.C., the manager will address the problem and, until resolved, the request for transfer will be denied.

The HRA will respond within ten (10) business days of the submission of the family's request. If the HRA denies the request for transfer, the family will be informed of its grievance rights.

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PART IV: TRANSFER PROCESSING

12-IV.A. OVERVIEW

Generally, families who request a transfer should be placed on a transfer list and processed in a consistent and appropriate order. The transfer process must be clearly auditable to ensure that residents do not experience inequitable treatment.

12-IV.B. TRANSFER LIST

HRA Policy

The HRA will maintain a centralized transfer list to ensure that transfers are processed in the correct order and that procedures are uniform across all properties.

Emergency transfers will not automatically go on the transfer list. Instead emergency transfers will be handled immediately, on a case by case basis. If the emergency cannot be resolved by a temporary accommodation, and the resident requires a permanent transfer, the family will be placed at the top of the transfer list.

Transfers will be processed in the following order:

1. Emergency transfers (hazardous maintenance conditions, VAWA)
2. High-priority transfers (verified medical condition, threat of harm or criminal activity, and reasonable accommodation)
3. Transfers to make accessible units available
4. Demolition, renovation, etc.
5. Occupancy standards
6. Other HRA-required transfers
7. Other tenant-requested transfers

Within each category, transfers will be processed in order of the date a family was placed on the transfer list, starting with the earliest date.

With the approval of the executive director, the HRA may, on a case-by-case basis, transfer a family without regard to its placement on the transfer list in order to address the immediate need of a family in crisis.

Demolition and renovation transfers will gain the highest priority as necessary to allow the HRA to meet the demolition or renovation schedule.

Transfers will take precedence over waiting list admissions.

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12-IV.C. TRANSFER OFFER POLICY

HRA Policy

Residents will receive one offer for An HRA required transfer and two offers for a resident requested transfer.

When the transfer is required by the HRA, the refusal of that offer without good cause will result in lease termination.

When the transfer has been requested by the resident, the refusal of that offer without good cause will result in the removal of the family from the transfer list. In such cases, the family must wait six months to reapply for another transfer.

12-IV.D. GOOD CAUSE FOR UNIT REFUSAL

HRA Policy

Examples of good cause for refusal of a unit offer include, but are not limited to, the following:

The family demonstrates to the HRA's satisfaction that accepting the unit offer will require an adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities.

The family demonstrates to the HRA's satisfaction that accepting the offer will place a family member's life, health, or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders, other court orders, risk assessments related to witness protection from a law enforcement agency, or documentation of domestic violence, dating violence, stalking, or human trafficking in accordance with section 16-VII.D of this ACOP. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption.

A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final application) or live-in aide necessary to the care of the principal household member.

The unit is inappropriate for the applicant's disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a 30-day notice to move.

The unit has lead-based paint and the family includes children under the age of six.

The HRA will require documentation of good cause for unit refusals.

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12-IV.E. DECONCENTRATION

HRA Policy

If subject to deconcentration requirements, the HRA will consider its deconcentration goals when transfer units are offered. When feasible, families above the Established Income Range will be offered a unit in a development that is below the Established Income Range, and vice versa, to achieve the HRA's deconcentration goals. A deconcentration offer will be considered a "bonus" offer; that is, if a resident refuses a deconcentration offer, the resident will receive one additional transfer offer.

12-IV.F. REEXAMINATION POLICIES FOR TRANSFERS

HRA Policy

The reexamination date will be changed to the first of the month in which the transfer took place.

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Chapter 13

LEASE TERMINATIONS

INTRODUCTION

Either party to the dwelling lease agreement may terminate the lease in accordance with the terms of the lease. A public housing lease is different from a private dwelling lease in that the family's rental assistance is tied to their tenancy. When the family moves from their public housing unit, they lose their rental assistance. Therefore, there are additional safeguards to protect the family's tenancy in public housing.

Likewise, there are safeguards to protect HUD's interest in the public housing program. The HRA has the authority to terminate the lease because of the family's failure to comply with HUD regulations, for serious or repeated violations of the terms of the lease, and for other good cause. HUD regulations also specify when termination of the lease is mandatory by the HRA.

When determining HRA policy on terminations of the lease, the HRA must consider state and local landlord-tenant laws in the area where the HRA is located. Such laws vary from one location to another, and these variances may be either more or less restrictive than federal law or HUD regulation.

This chapter presents the policies that govern voluntary termination of the lease by the family and the mandatory and voluntary termination of the lease by the HRA. It is presented in four parts:

Part I: Termination by Tenant. This part discusses the HRA requirements for voluntary termination of the lease by the family.

Part II: Termination by HRA - Mandatory. This part describes circumstances when termination of the lease by the HRA is mandatory. This part also explains nonrenewal of the lease for noncompliance with community service requirements and families that have been over the income limit for 24 consecutive months.

Part III: Termination by HRA – Other Authorized Reasons. This part describes the HRA's options for lease termination that are not mandated by HUD regulation but for which HUD authorizes HRAs to terminate. For some of these options HUD requires the HRA to establish policies and lease provisions for termination, but termination is not mandatory. For other options the HRA has full discretion whether to consider the options as just cause to terminate as long as the HRA policies are reasonable, nondiscriminatory, and do not violate state or local landlord-tenant law. This part also discusses the alternatives that the HRA may consider in lieu of termination, and the criteria the HRA will use when deciding what actions to take.

Part IV: Notification Requirements. This part presents the federal requirements for disclosure of criminal records to the family prior to termination, the HUD requirements and HRA policies regarding the timing and content of written notices for lease termination and eviction, and notification of the post office when eviction is due to criminal activity. This part also discusses record keeping related to lease termination.

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PART I: TERMINATION BY TENANT

13-I.A. TENANT CHOOSES TO TERMINATE THE LEASE [24 CFR 966.4(k)(1)(ii) and 24 CFR 966.4(l)(1)]

The family may terminate the lease at any time, for any reason, by following the notification procedures as outlined in the lease. Such notice must be in writing and delivered to the property site office or the HRA central office or sent by pre-paid first-class mail, properly addressed.

HRA Policy

If a family desires to move and terminate their tenancy with the HRA, they must give at least 30 calendar days advance written notice to the HRA of their intent to vacate. When a family must give less than 30 days' notice due to circumstances beyond their control the HRA, at its discretion, may waive the 30-day requirement.

The notice of lease termination must be signed by the head of household, spouse, or cohead.

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PART II: TERMINATION BY HRA – MANDATORY

13-II.A. OVERVIEW

HUD requires mandatory termination of the lease for certain actions or inactions of the family. There are other actions or inactions of the family that constitute *grounds* for lease termination, but the lease termination is not mandatory. The HRA must establish policies for termination of the lease in these cases where termination is optional for the HRA.

For those tenant actions or failures to act where HUD requires termination, the HRA has no such option. In those cases, the family's lease must be terminated. This part describes situations in which HUD requires the HRA to terminate the lease.

13-II.B. FAILURE TO PROVIDE CONSENT [24 CFR 960.259(a) and (b)]

The HRA must terminate the lease if any family member fails to sign and submit any consent form s/he is required to sign for any reexamination. See Chapter 7 for a complete discussion of consent requirements.

13-II.C. FAILURE TO DOCUMENT CITIZENSHIP [24 CFR 5.514(c) and (d) and 24 CFR 960.259(a)]

The HRA must terminate the lease if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family, resulting in no eligible family members; or (3) a family member, as determined by the HRA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. For (3), such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated.

See Chapter 7 for a complete discussion of documentation requirements.

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13-II.D. FAILURE TO DISCLOSE AND DOCUMENT SOCIAL SECURITY NUMBERS [24 CFR 5.218(c), 24 CFR 960.259(a)(3), Notice PIH 2018-24]

The HRA must terminate assistance if a participant family fails to disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number.

However, if the family is otherwise eligible for continued program assistance, and the HRA determines that the family's failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the family's control, the HRA may defer the family's termination and provide the opportunity to comply with the requirement within a period not to exceed 90 calendar days from the date the HRA determined the family to be noncompliant.

HRA Policy

The HRA will defer the family's termination and provide the family with the opportunity to comply with the requirement for a period of 90 calendar days for circumstances beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency, if there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.

See Chapter 7 for a complete discussion of documentation and certification requirements.

13-II.E. FAILURE TO ACCEPT THE HRA'S OFFER OF A LEASE REVISION [24 CFR 966.4(l)(2)(ii)(E)]

The HRA must terminate the lease if the family fails to accept the HRA's offer of a lease revision to an existing lease, provided the HRA has done the following:

- The revision is on a form adopted by the HRA in accordance with 24 CFR 966.3 pertaining to requirements for notice to tenants and resident organizations and their opportunity to present comments.
- The HRA has made written notice of the offer of the revision at least 60 calendar days before the lease revision is scheduled to take effect.
- The HRA has specified in the offer a reasonable time limit within that period for acceptance by the family.

See Chapter 8 for information pertaining to HRA policies for offering lease revisions.

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13-II.F. METHAMPHETAMINE CONVICTION [24 CFR 966.4(l)(5)(i)(A)]

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

See Part 13-III.B. below for the HUD definition of *premises.*

13-II.G. LIFETIME REGISTERED SEX OFFENDERS [Notice PIH 2012-28]

Should a HRA discover that a member of an assisted household was subject to a lifetime registration requirement at admission and was erroneously admitted after June 25, 2001, the HRA must immediately terminate assistance for the household member.

In this situation, the HRA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the HRA must terminate assistance for the household.

13-II.H. NONCOMPLIANCE WITH COMMUNITY SERVICE REQUIREMENTS [24 CFR 966.4(l)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)(2)(ii) and (c)]

The HRA is prohibited from renewing the lease at the end of the 12-month lease term when the family fails to comply with the community service requirements as described in Chapter 11.

13-II.I. DEATH OF A SOLE FAMILY MEMBER [Notice PIH 2012-4]

The HRA must immediately terminate the lease following the death of the sole family member.

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13-II.J. OVER_INCOME FAMILIES [24 CFR 960.507; FR Notice 7/26/18; Notice PIH 2023-03; FR Notice 2/14/23]

In the public housing program, an *over-income family* is defined as a family whose income exceeds the over-income limit for 24 consecutive months. When this occurs, the HRA must either:

- Terminate the family's tenancy within six months of the HRA's final notification of the end of the 24-month grace period; or
- Within 60 days of the HRA's final notification of the end of the 24-month grace period or the next lease renewal (whichever is sooner), have the family execute a new lease that is consistent with 24 CFR 960.509 and charge the family a monthly rent that is the higher of the applicable fair market rent (FMR) or the amount of monthly subsidy for the unit, including amounts from the operating and capital funds.

However, a HRA that owns or operates fewer than 250 public housing units may continue to lease public housing units to families whose incomes exceed the low-income limit at initial occupancy in accordance with 24 CFR 960.503. Otherwise, the HRA must establish a continued occupancy policy for over-income families in the ACOP indicating which of the above will occur.

HRA Policy

For families whose income exceeds the over-income limit for 24 consecutive months, the HRA will terminate the tenancy of the family no more than six months after the final notification of the family's over-income status in accordance with the continued occupancy policies below.

Over-Income Limit [Notice PIH 2023-03]

The HRA must publish over-income limits in their ACOP and update them no later than 60 days after HUD publishes new income limits each year. The over-income limit is calculated by multiplying the very low-income limit (VLI) by 2.4, as adjusted for family size.

HRA Policy

The HRA will rely on the following over-income limits. These numbers will be updated within 60 days of HUD publishing new income limits each year and will be effective for all annual and interim reexaminations once these policies have been adopted.

Family Size	1	2	3	4	5
Over-Income Limit	$104,400	$119,280	$134,160	$149,040	$161,040

For families larger than eight persons, the over-income limit will be calculated by multiplying the applicable very low-income limit by 2.4.

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Decreases in Income [24 CFR 960.507(c)(4)]

If, at any time during the consecutive 24-month period following the initial over-income determination, the HRA determines that the family's income is below the over-income limit, the HRA's over-income policies no longer apply to the family. If the HRA later determines that the family's income exceeds the over-income limit at a subsequent annual or interim reexamination, the family is entitled to a new 24 consecutive month period and new notices under this section.

HRA Policy

If, at any time during the 24-month period following the initial over-income determination, an over-income family experiences a decrease in income, the family may request an interim redetermination of rent in accordance with HRA policy in Chapter 9.

If, as a result, the previously over-income family is now below the over-income limit, the family is no longer subject to over-income provisions as of the effective date of the recertification. The HRA will notify the family in writing within 10 business days of the determination that over-income policies no longer apply to them.

Initial Notice of Over-Income Status [24 CFR 960.507(c)(1); Notice PIH 2023-03]

If the HRA determines the family has exceeded the over-income limit during an annual or interim reexamination, the HRA must provide written notice to the family of the over-income determination no later than 30 days after the income examination. The notice must state that the family has exceeded the over-income limit and continuing to do so for a total of 24 consecutive months will result in the HRA following its continued occupancy policy for over-income families. The HRA must afford the family an opportunity for a hearing if the family disputes within a reasonable time the HRA's determination that the family has exceeded the over-income limit. Exhibits 13-1 and 13-2 provide sample initial notices based on HUD's model notices.

HRA Policy

At annual or interim reexamination, if a family's income exceeds the applicable over-income limit, within 10 business days of the determination, the HRA will notify the family in writing of the determination. The notice will state that if the family continues to be over-income for 24 consecutive months, the family will be subject to the HRA's over-income policies. The notice will state that the family may request a hearing if the family disputes the HRA's determination in accordance with HRA policies in Chapter 14. The HRA will ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other impairments.

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Second Notice of Over-Income Status [24 CFR 960.507(c)(2); Notice PIH 2023-03; Notice PIH 2023-27]

The HRA must conduct an income examination 12 months after the initial over-income determination, even if the family is paying flat rent, unless the HRA determined the family's income fell below the over-income limit since the initial over-income determination. This includes when the HRA makes an initial determination that a family is over-income during an interim reexamination. In this case the HRA must conduct a second interim reexamination 12 months after the over-income determination, unless the family's income falls below the over-income limit during the 24-month period. See Chapter 9 for HRA policies on interims for over-income families.

If the HRA determines the family continues to exceed the over-income limit for 12 consecutive months, the HRA must provide written notification of this 12-month over-income determination no later than 30 days after the income examination. The notice must state that the family has exceeded the over-income limit for 12 consecutive months and continuing to do so for a total of 24 consecutive months will result in the HRA following its continued occupancy policy for over-income families. Additionally, if applicable under HRA policy, the notice must include an estimate (based on current data) of the alternative non-public housing rent for the family's unit. The HRA must afford the family an opportunity for a hearing if the family disputes within a reasonable time the HRA's determination that the family has exceeded the over-income limit. Exhibits 13-3 and 13-4 provide sample 12-month notices based on HUD's model notices.

HRA Policy

If a family's income continues to exceed the applicable over-income limit after 12 consecutive months, within 10 business days of the determination, the HRA will notify the family in writing of the determination. The notice will state that if the family continues to be over-income for 24 consecutive months, the family will be subject to the HRA's over-income policies. The notice will provide an estimate of the alternative non-public housing rent applicable to the family at the close of the 24 consecutive month period. The notice will also state that the family may request a hearing if the family disputes the HRA's determination in accordance with HRA policies in Chapter 14. The HRA will ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other impairments.

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Final Notice of Over-Income Status [24 CFR 960.507(c)(3) and 960.509; Notice PIH 2023-03; Notice PIH 2023-27]

Unless the HRA determined the family's income fell below the over-income limit since the second over-income determination, the HRA must conduct an income examination 24 months after the initial over income determination, even if the family is paying flat rent. When a HRA makes an initial determination that a family is over-income during an interim reexamination, the HRA must conduct an interim reexamination 12 months after the over-income determination, and then again 12 months after the second over-income determination, unless the family's income falls below the over-income limit during the 24-month period.

If the family continues to be over-income based on this determination, the HRA must provide written notification of this determination no later than 30 days after the income examination. The notice must state that the family has exceeded the over-income limit for 24 consecutive months and that the HRA will follow its continued occupancy policies for over-income families. The HRA must afford the family an opportunity for a hearing if the family disputes within a reasonable time the HRA's determination that the family has exceeded the over-income limit. Exhibits 13-5 and 13-6 provide sample 24-month notices based on HUD's model notices.

HRA Policy

For families whose income exceeds the over-income limit for 24 consecutive months, the HRA will terminate the tenancy of the family no more than six months after the final notification of the family's over-income status.

During the period before termination, the over-income family will continue to be a public housing program participant until their tenancy is terminated. The HRA will continue to charge the family rent in accordance with public housing regulations, will offer the family the choice between income-based and flat rent as required by the regulations, and will prorate rent for mixed families.

When an over income family is facing termination after exceeding the grace period of six months, the family may request an interim reexamination, but a decrease in income and the family's rent will not reset the period before termination or enable the family to avoid termination.

The HRA will give appropriate notice of lease tenancy termination (notice to vacate) in accordance with state and local laws.

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The non-public housing over-income (NPHOI) lease will contain all required provisions listed at 24 CFR 960.509. The initial term of the lease will be for one year. Upon expiration of the initial lease term, the lease will not renew automatically, and subsequent leases will state renewal terms. At any time, the HRA may terminate tenancy in accordance with 24 CFR 960.509(b)(11) and in accordance with state and local law.

Upon execution of the lease, the tenant will be required pay the amount of monthly tenant rent (known as the alternative non-public housing rent) determined by the HRA in accordance with HUD regulations. The HRA will comply with state and local law in giving the tenant written notice stating any changes in the amount of tenant rent. Charges assessed under the lease will be due in accordance with state and local law.

If an NPHOI family subsequently experiences a decrease in income after signing the NPHOI lease, the family may only be readmitted to the public housing program if they once again become an eligible low-income family and reapply to the public housing program.

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PART III: TERMINATION BY HRA – OTHER AUTHORIZED REASONS

13-III.A. OVERVIEW

Besides requiring HRAs to terminate the lease under the circumstances described in Part II, HUD requires the HRA to establish provisions in the lease for termination pertaining to certain criminal activity, alcohol abuse, and certain household obligations stated in the regulations. While these provisions for lease termination must be in the lease agreement, HUD does not require HRAs to terminate for such violations in all cases. The HRA has the discretion to consider circumstances surrounding the violation or, in applicable situations, whether the offending household member has entered or completed rehabilitation, and the HRA may, as an alternative to termination, require the exclusion of the culpable household member. The HRA must adopt policies concerning the use of these options.

In addition, HUD authorizes HRAs to terminate the lease for other grounds, but for only those grounds that constitute serious or repeated violations of material terms of the lease or for other good cause. The HRA must develop policies pertaining to what constitutes serious or repeated lease violations, and other good cause, based upon the content of the HRA lease. In the development of the terms of the lease, the HRA must consider the limitations imposed by state and local landlord-tenant law, as well as HUD regulations and federal statutes. Because of variations in state and local landlord-tenant law, and because HUD affords HRAs wide discretion in some areas, a broad range of policies could be acceptable.

The HRA also has the option to terminate the tenancies of certain over-income families.

The HRA may consider alternatives to termination and must establish policies describing the criteria the HRA will use when deciding what action to take, the types of evidence that will be acceptable, and the steps the HRA must take when terminating a family's lease.

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13-III.B. MANDATORY LEASE PROVISIONS [24 CFR 966.4(l)(5)]

This section addresses provisions for lease termination that must be included in the lease agreement according to HUD regulations. Although the provisions are required, HUD does not require HRAs to terminate for such violations in all cases, therefore HRA policies are needed.

Definitions [24 CFR 5.100]

The following definitions will be used for this and other parts of this chapter:

Affiliated individual is defined in section 16-VII.B.

Covered person means a tenant, any member of the tenant's household, a guest, or another person under the tenant's control.

Dating violence is defined in section 16-VII.B.

Domestic violence is defined in section 16-VII.B.

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

Drug-related criminal activity means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with the intent to manufacture, sell, distribute, or use the drug.

Guest means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.

Household means the family and HRA-approved live-in aide. The term household also includes foster children and/or foster adults that have been approved to reside in the unit [HUD-50058, Instruction Booklet, p. 65].

Other person under the tenant's control means that the person, although not staying as a guest in the unit, is, or was at the time of the activity in question, on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not *under the tenant's control*.

Premises means the building or complex or development in which the public or assisted housing dwelling unit is located, including common areas and grounds.

Sexual assault is defined in section 16-VII.B.

Stalking is defined in section 16-VII.B.

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

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Drug Crime On or Off the Premises [24 CFR 966.4(l)(5)(i)(B)]

The lease must provide that drug-related criminal activity engaged in on or off the premises by the tenant, member of the tenant's household or guest, or any such activity engaged in on the premises by any other person under the tenant's control is grounds for termination.

HRA Policy

The HRA will terminate the lease for drug-related criminal activity engaged in on or off the premises by any tenant, member of the tenant's household or guest, and any such activity engaged in on the premises by any other person under the tenant's control.

The HRA will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to the drug-related criminal activity.

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

In making its decision to terminate the lease, the HRA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the HRA may, on a case-by-case basis, choose not to terminate the lease.

Illegal Use of a Drug [24 CFR 966.4(l)(5)(i)(B)]

The lease must provide that a HRA may evict a family when the HRA 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.

HRA Policy

The HRA will terminate the lease when the HRA determines that a household member is illegally using a drug or the HRA determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

A pattern of illegal drug use means more than one incident of any use of illegal drugs during the previous three months.

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

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

In making its decision to terminate the lease, the HRA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the HRA may, on a case-by-case basis, choose not to terminate the lease.

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Threat to Other Residents [24 CFR 966.4(l)(5)(ii)(A)]

The lease must provide that any criminal activity by a covered person that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including HRA management staff residing on the premises) or by persons residing in the immediate vicinity of the premises is grounds for termination of tenancy.

HRA Policy

The HRA will terminate the lease when a covered person engages in any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including HRA management staff residing on the premises) or by persons residing in the immediate vicinity of the premises.

Immediate vicinity means within a three-block radius of the premises.

The HRA will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to the criminal activity.

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

In making its decision to terminate the lease, the HRA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the HRA may, on a case-by-case basis, choose not to terminate the lease.

Alcohol Abuse [24 CFR 966.4(l)(5)(vi)(A)]

HRAs must establish standards that allow termination of tenancy if the HRA 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.

HRA Policy

The HRA will terminate the lease if the HRA determines that a household member has engaged in abuse or a pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

A pattern of such alcohol abuse means more than one incident of any such abuse of alcohol during the previous three months.

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

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

In making its decision to terminate the lease, the HRA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the HRA may, on a case-by-case basis, choose not to terminate the lease.

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Furnishing False or Misleading Information Concerning Illegal Drug Use or Alcohol Abuse or Rehabilitation [24 CFR 966.4(l)(5)(vi)(B)]

HRAs must establish standards that allow termination of tenancy if the HRA 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.

HRA Policy

The HRA will terminate the lease if the HRA determines that a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

The HRA will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the use of illegal drugs or the abuse of alcohol, and any records or other documentation (or lack of records or documentation) supporting claims of rehabilitation of illegal drug users or alcohol abusers.

In making its decision to terminate the lease, the HRA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the HRA may, on a case-by-case basis, choose not to terminate the lease.

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Other Serious or Repeated Violations of Material Terms of the Lease – Mandatory Lease Provisions [24 CFR 966.4(l)(2)(i) and 24 CFR 966.4(f)]

HUD regulations require certain tenant obligations to be incorporated into the lease. Violations of such regulatory obligations are considered to be serious or repeated violations of the lease and grounds for termination. Incidents of actual or threatened domestic violence, dating violence, sexual assault, stalking, or human trafficking may not be construed as serious or repeated violations of the lease by the victim or threatened victim [24 CFR 5.2005(c)(1)].

HRA Policy

The HRA will terminate the lease for the following violations of tenant obligations under the lease:

Failure to make payments due under the lease, including nonpayment of rent (see Chapter 8 for details pertaining to lease requirements for payments due);

Repeated late payment of rent or other charges. Four late payments within a 12-month period shall constitute a repeated late payment.

Failure to fulfill the following household obligations:

Not to assign the lease or to sublease the dwelling unit. Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

Not to provide accommodations for boarders or lodgers

To use the dwelling unit solely as a private dwelling for the tenant and the tenant's household as identified in the lease, and not to use or permit its use for any other purpose

To abide by necessary and reasonable regulations promulgated by the HRA for the benefit and well-being of the housing project and the tenants which shall be posted in the project office and incorporated by reference in the lease

To comply with all obligations imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety

To keep the dwelling unit and such other areas as may be assigned to the tenant for the tenant's exclusive use in a clean and safe condition

To dispose of all ashes, garbage, rubbish, and other waste from the dwelling unit in a sanitary and safe manner

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To use only in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appurtenances including elevators

To refrain from, and to cause the household and guests to refrain from destroying, defacing, damaging, or removing any part of the dwelling unit or project

To pay reasonable charges (other than for normal wear and tear) for the repair of damages to the dwelling unit, or to the project (including damages to project buildings, facilities or common areas) caused by the tenant, a member of the household or a guest

To act, and cause household members or guests to act, in a manner which will not disturb other residents' peaceful enjoyment of their accommodations and will be conducive to maintaining the project in a decent, safe and sanitary condition

In making its decision to terminate the lease, the HRA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the HRA may, on a case-by-case basis, choose not to terminate the lease.

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13-III.C. OTHER AUTHORIZED REASONS FOR TERMINATION [24 CFR 966.4(l)(2) and (5)(ii)(B)]

HUD authorizes HRAs to terminate the lease for reasons other than those described in the previous sections. These reasons are referred to as "other good cause."

Other Good Cause [24 CFR 966.4(l)(2)(ii)(B) and (C)]

HUD regulations state that the HRA may terminate tenancy for other good cause. The regulations provide a few examples of other good cause, but do not limit the HRA to only those examples. The Violence against Women Act prohibits HRAs from considering incidents of actual or threatened domestic violence, dating violence, sexual assault, stalking, or human trafficking as "other good cause" for terminating the assistance, tenancy, or occupancy rights of the victim or threatened victim of such violence [see 24 CFR 5.2005(c)(1)].

HRA Policy

The HRA will terminate the lease for the following reasons.

Fugitive Felon or Parole Violator. If a tenant is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or violating a condition of probation or parole imposed under federal or state law.

Persons subject to sex offender registration requirement. If any member of the household has, during their current public housing tenancy, become subject to a registration requirement under a state sex offender registration program.

Discovery of facts after admission to the program that would have made the tenant ineligible

Discovery of material false statements or fraud by the tenant in connection with an application for assistance or with a reexamination of income

Failure to furnish such information and certifications regarding family composition and income as may be necessary for the HRA to make determinations with respect to rent, eligibility, and the appropriateness of the dwelling unit size

Failure to transfer to an appropriate size dwelling unit based on family composition, upon appropriate notice by the HRA that such a dwelling unit is available

Failure to permit access to the unit by the HRA after proper advance notification for the purpose of performing routine inspections and maintenance, for making improvements or repairs, or to show the dwelling unit for re-leasing, or without advance notice if there is reasonable cause to believe that an emergency exists

Failure to promptly inform the HRA of the birth, adoption or court-awarded custody of a child. In such a case, promptly means within 10 business days of the event.

Failure to abide by the provisions of the HRA pet policy

If the family has breached the terms of a repayment agreement entered into with the HRA

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If a family member has violated federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

If a household member has engaged in or threatened violent or abusive behavior toward HRA personnel.

Abusive or violent behavior towards HRA personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to terminate the lease, the HRA will consider alternatives as described in Section 13-III.D and other factors described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the HRA may, on a case-by-case basis, choose not to terminate the lease.

Family Absence from Unit [24 CFR 982.551(i)]

It is reasonable that the family may be absent from the public housing unit for brief periods. However, the HRA needs a policy on how long the family may be absent from the unit. Absence in this context means that no member of the family is residing in the unit.

HRA Policy

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

The family must promptly notify the HRA when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. In such a case promptly means within 10 business days of the start of the extended absence.

If a family is absent from the public housing unit for more than 180 consecutive days, and the family does not adequately verify that they are living in the unit, the HRA will terminate the lease for other good cause.

Abandonment of the unit. If the family appears to have vacated the unit without giving proper notice, the HRA will follow state and local landlord-tenant law pertaining to abandonment before taking possession of the unit. If necessary, the HRA will secure the unit immediately to prevent vandalism and other criminal activity.

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13-III.D. ALTERNATIVES TO TERMINATION OF TENANCY

Exclusion of Culpable Household Member [24 CFR 966.4(l)(5)(vii)(C)]

As an alternative to termination of the lease for criminal activity or alcohol abuse HUD provides that the HRA may consider exclusion of the culpable household member. Such an alternative can be used for any other reason where such a solution appears viable in accordance with HRA policy.

Additionally, under the Violence against Women Act, the HRA may bifurcate a lease in order to terminate the tenancy of an individual who is a tenant or lawful occupant of a unit and engages in criminal activity directly related to domestic violence, dating violence, sexual assault, stalking, or human trafficking.

HRA Policy

The HRA will consider requiring the 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.

As a condition of the family's continued occupancy, the head of household must certify that the culpable household member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former household member's current address upon HRA request.

Repayment of Family Debts

HRA Policy

If a family owes amounts to the HRA, as a condition of continued occupancy, the HRA will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the HRA of the amount owed. See Chapter 16 for policies on repayment agreements.

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13-III.E. CRITERIA FOR DECIDING TO TERMINATE TENANCY

A HRA that has grounds to terminate a tenancy is not required to do so, except as explained in Part II of this chapter, and may consider all of the circumstances relevant to a particular case before making a decision.

Evidence [24 CFR 982.553(c)]

For criminal activity, HUD permits the HRA to terminate the lease if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted, and without satisfying the standard of proof used for a criminal conviction.

HRA Policy

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

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

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Consideration of Circumstances [24 CFR 966.4(l)(5)(vii)(B)]

Although it is required that certain lease provisions exist for criminal activity and alcohol abuse, HUD provides that the HRA may consider all circumstances relevant to a particular case in order to determine whether or not to terminate the lease.

Such relevant circumstances can also be considered when terminating the lease for any other reason.

HRA Policy

The HRA will consider the following facts and circumstances before deciding whether to terminate the lease for any of the HUD required lease provisions or for any other reasons:

The seriousness of the offending action, especially with respect to how it would affect other residents' safety or property

The extent of participation or culpability of the leaseholder, or other household members, in the offending action, including whether the culpable member is a minor, a person with disabilities, or (as discussed further in section 13-III.F) a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking

The effects that the eviction will have on other family members who were not involved in the action or failure to act

The effect on the community of the termination, or of the HRA's failure to terminate the tenancy

The effect of the HRA's decision on the integrity of the public housing program

The demand for housing by eligible families who will adhere to lease responsibilities

The extent to which the leaseholder has shown personal responsibility and whether they have taken all reasonable steps to prevent or mitigate the offending action

The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history, and the likelihood of favorable conduct in the future

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While a record or records of arrest will not be used as the sole basis for termination, an arrest may, however, trigger an investigation to determine whether the participant actually engaged in disqualifying criminal activity. As part of its investigation, the HRA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The HRA may also consider:

Any statements made by witnesses or the participant not included in the police report

Whether criminal charges were filed

Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal

Any other evidence relevant to determining whether or not the participant engaged in disqualifying activity

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

In the case of program abuse, the dollar amount of the underpaid rent and whether or not a false certification was signed by the family

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Consideration of Rehabilitation [24 CFR 966.4(l)(5)(vii)(D)]

HUD authorizes HRAs to take into consideration whether a household member who had used illegal drugs or abused alcohol and is no longer engaging in such use or abuse is participating in or has successfully completed a supervised drug or alcohol rehabilitation program.

HRA Policy

In determining whether to terminate the lease for illegal drug use or a pattern of illegal drug use, or for abuse or a pattern of abuse of alcohol, by a household member who is no longer engaging in such use or abuse, the HRA will 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 HRA will require the tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

Reasonable Accommodation [24 CFR 966.7]

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

HRA Policy

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

Nondiscrimination Limitation [24 CFR 966.4(l)(5)(vii)(F)]

The HRA's eviction actions must be consistent with fair housing and equal opportunity provisions of 24 CFR 5.105.

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13-III.F. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING, OR HUMAN TRAFFICKING

This section addresses the protections against termination of tenancy that the Violence against Women Act (VAWA) provides for public housing residents who are victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking. For general VAWA requirements and HRA policies pertaining to notification, documentation, and confidentiality, see section 16-VII of this ACOP, where definitions of key VAWA terms are also located.

VAWA Protections against Termination [24 CFR 5.2005(c)]

VAWA provides that no person may deny assistance, tenancy, or occupancy rights to public housing to a tenant on the basis or as a direct result of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking that is engaged in by a member of the household of the tenant or any guest or other person under the control of the tenant, if the tenant or affiliated individual is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking [FR Notice 8/6/13].

VAWA further provides that incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking may not be construed either as serious or repeated violations of the lease by the victim or threatened victim of such violence or as good cause for terminating the tenancy or occupancy rights of the victim of such violence [24 CFR 5.2005(c)(1), FR Notice 8/6/13]

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

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

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Limits on VAWA Protections [24 CFR 5.2005(d) and (e), FR Notice 8/6/13]

While VAWA prohibits a HRA from using domestic violence, dating violence, sexual assault, stalking, or human trafficking as the cause for a termination or eviction action against a public housing tenant who is the victim of the abuse, the protections it provides are not absolute. Specifically:

- VAWA does not limit a HRA's otherwise available authority to terminate assistance to or evict a victim for lease violations not premised on an act of domestic violence, dating violence, sexual assault, stalking, or human trafficking providing that the HRA does not subject the victim to a more demanding standard than the standard to which it holds other tenants.
- VAWA does not limit a HRA's authority to terminate the tenancy of any public housing tenant if the HRA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant's tenancy is not terminated.

HUD regulations define *actual and imminent threat* to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm [24 CFR 5.2005(d)(2) and (e)]. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk
- The nature and severity of the potential harm
- The likelihood that the potential harm will occur
- The length of time before the potential harm would occur [24 CFR 5.2005(e)]

In order to demonstrate an actual and imminent threat, the HRA must have objective evidence of words, gestures, actions, or other indicators. Even when a victim poses an actual and imminent threat, however, HUD regulations authorize a HRA to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat, including but not limited to transferring the victim to a different unit, barring the perpetrator from the property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat" [24 CFR 5.2005(d)(3)]. Additionally, HUD regulations state that restrictions "predicated on public safety cannot be based on stereotypes, but must be tailored to particularized concerns about individual residents" [24 CFR 5.2005(d)(3)].

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HRA Policy

In determining whether a public housing tenant who is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking is an actual and imminent threat to other tenants or those employed at or providing service to a property, the HRA will consider the following, and any other relevant, factors:

Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking

Whether the threat is a physical danger beyond a speculative threat

Whether the threat is likely to happen within an immediate time frame

Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location, transferring the victim to another unit, or seeking a legal remedy to prevent the perpetrator from acting on the threat

If the tenant wishes to contest the HRA's determination that they are an actual and imminent threat to other tenants or employees, the tenant may do so as part of the grievance hearing or in a court proceeding.

Documentation of Abuse [24 CFR 5.2007]

HRA Policy

When an individual facing termination of tenancy for reasons related to domestic violence, dating violence, sexual assault, stalking, or human trafficking claims protection under VAWA, the HRA will request in writing that the individual provide documentation supporting the claim in accordance with the policies in section 16-VII.D of this ACOP.

The HRA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases the HRA will document the waiver in the individual's file.

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Terminating or Evicting a Perpetrator of Domestic Violence

Although VAWA provides protection from termination for victims of domestic violence, it does not provide such protection for perpetrators. In fact, VAWA gives the HRA the explicit authority to bifurcate a lease, or remove a household member from a lease, "in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant of the housing and who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual, without evicting, removing, terminating assistance to, or otherwise penalizing a victim of such criminal activity who is also a tenant or lawful occupant of the housing" [FR Notice 8/6/13]. Moreover, HUD regulations impose on the HRA the obligation to consider lease bifurcation in any circumstances involving domestic violence, dating violence, stalking, or human trafficking [see 24 CFR 966.4(e)(9)].

Specific lease language affirming the HRA's authority to bifurcate a lease is not necessary, and the authority supersedes any local, state, or federal law to the contrary. However, if the HRA chooses to exercise its authority to bifurcate a lease, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law for eviction, lease termination, or termination of assistance. This means that the HRA must follow the same rules when terminating or evicting an individual as it would when terminating or evicting an entire family [FR Notice 3/16/07]. However, perpetrators should be given no more than 30 days' notice of termination in most cases [Notice PIH 2017-08].

HRA Policy

The HRA will bifurcate a family's lease and terminate the tenancy of a family member if the HRA determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the tenancy or program assistance of the remaining, nonculpable family members.

In making its decision, the HRA will consider all credible evidence, including, but not limited to, a signed certification (form HUD-5382) or other documentation of abuse submitted to the HRA by the victim in accordance with this section and section 16-VII.D. The HRA will also consider the factors in section 13.III.E. Upon such consideration, the HRA may, on a case-by-case basis, choose not to bifurcate the lease and terminate the tenancy of the culpable family member.

If the HRA does bifurcate the lease and terminate the tenancy of the culpable family member, it will do so in accordance with the lease, applicable law, and the policies in this ACOP. If the person removed from the lease was the only tenant eligible to receive assistance, the HRA must provide any remaining tenant a chance to establish eligibility for the unit. If the remaining tenant cannot do so, the HRA must provide the tenant reasonable time to find new housing or to establish eligibility for another housing program covered under VAWA.

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PART IV: NOTIFICATION REQUIREMENTS, EVICTION PROCEDURES AND RECORD KEEPING

13-IV.A. OVERVIEW

HUD regulations specify the requirements for the notice that must be provided prior to lease termination. This part discusses those requirements and the specific requirements that precede and follow termination for certain criminal activities which are addressed in the regulations. This part also discusses specific requirements pertaining to the actual eviction of families and record keeping.

13-IV.B. CONDUCTING CRIMINAL RECORDS CHECKS [24 CFR 5.903(e)(ii) and 24 CFR 960.259]

HUD authorizes HRAs to conduct criminal records checks on public housing residents for lease enforcement and eviction. HRA policy determines when the HRA will conduct such checks.

HRA Policy

The HRA will conduct criminal records checks when it has come to the attention of the HRA, either from local law enforcement or by other means, that an individual has engaged in the destruction of property, engaged in violent activity against another person, or has interfered with the right to peaceful enjoyment of the premises of other residents. Such checks will also include sex offender registration information. In order to obtain such information, all adult household members must sign consent forms for release of criminal conviction and sex offender registration records on an annual basis.

The HRA may not pass along to the tenant the costs of a criminal records check.

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13-IV.C. DISCLOSURE OF CRIMINAL RECORDS TO FAMILY [24 CFR 5.903(f), 24 CFR 5.905(d) and 24 CFR 966.4(l)(5)(iv)]

In conducting criminal records checks, if the HRA uses the authority of 24 CFR 5.903 and 5.905 to obtain such information, certain protections must be afforded the tenant before any adverse action is taken. In such cases if the HRA obtains criminal records information from a state or local agency showing that a household member has been convicted of a crime, or is subject to a sex offender registration requirement, relevant to lease enforcement or eviction, the HRA must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of such information, and an opportunity to dispute the accuracy and relevance of the information before an eviction or lease enforcement action is taken.

HRA Policy

In all cases where criminal record or sex offender registration information would result in lease enforcement or eviction, the HRA will notify the household in writing of the proposed adverse action and will provide the subject of the record and the tenant a copy of such information, and an opportunity to dispute the accuracy and relevance of the information before an eviction or lease enforcement action is taken.

The family will be given 10 business days from the date of the HRA notice, to dispute the accuracy and relevance of the information. If the family does not contact the HRA to dispute the information within that 10 business day period, the HRA will proceed with the termination action.

Should the tenant not exercise their right to dispute prior to any adverse action, the tenant still has the right to dispute in the grievance hearing or court trial.

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13-IV.D. LEASE TERMINATION NOTICE [24 CFR 966.4(l)(3); Notice PIH 2021-29]

Form, Delivery, and Content of the Notice

Notices of lease termination must be in writing. The notice must state the specific grounds for termination, the date the termination will take place, the resident's right to reply to the termination notice, and their right to examine HRA documents directly relevant to the termination or eviction. If the HRA does not make the documents available for examination upon request by the tenant, the HRA may not proceed with the eviction [24 CFR 996.4(m)].

HRA Policy

If the HRA offers remote hearings, the notice will also state that the resident may request a remote hearing.

If the HRA will require that the hearing be conducted remotely, at the time the notice is sent to the resident informing them of the right to request a hearing, the resident will be notified that the hearing will be conducted remotely. The resident will be informed of the processes involved in a remote hearing and that the HRA will provide technical assistance, if needed, before the hearing.

Further, during the period of time for which HUD determines that a national emergency requires additional time for families to secure funding, all termination notifications for nonpayment of rent must include, at a minimum, the language provided in the Appendix of Notice PIH 2021-29.

When the HRA is required to offer the resident an opportunity for a grievance hearing, the notice must also inform the resident of their right to request a hearing in accordance with the HRA's grievance procedure. In these cases, the tenancy shall not terminate until the time for the tenant to request a grievance hearing has expired and the grievance procedure has been completed.

When the HRA is not required to offer the resident an opportunity for a grievance hearing because HUD has made a due process determination and the lease termination is for criminal activity that threatens health, safety or right to peaceful enjoyment or for drug-related criminal activity, the notice of lease termination must state that the tenant is not entitled to a grievance hearing on the termination. It must specify the judicial eviction procedure to be used by the HRA for eviction of the tenant, and state that HUD has determined that the eviction procedure provides the opportunity for a hearing in court that contains the basic elements of due process as defined in HUD regulations. The notice must also state whether the eviction is for a criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of the HRA, or for a drug-related criminal activity on or off the premises.

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HRA Policy

The HRA will attempt to deliver notices of lease termination directly to the tenant or an adult member of the household. If such attempt fails, the notice will be sent by first-class mail the same day.

All notices of lease termination will include a copy of the forms HUD-5382 and HUD-5380 to accompany the termination notice. Any tenant who claims that the cause for termination involves domestic violence, dating violence, sexual assault, stalking, or human trafficking of which the tenant or affiliated individual of the tenant is the victim will be given the opportunity to provide documentation in accordance with the policies in sections 13-III.F and 16-VII.D.

Timing of the Notice [24 CFR 966.4(l)(3)(i); 24 CFR 966.8; Notice PIH 2021-29]

The HRA must give written notice of lease termination of:

- During the period of time for which HUD determines that a national emergency requires additional time for families to secure federal funding that is available due to a Presidential declaration of a national emergency, at least 30 days from the date the tenant receives the notice in the case of failure to pay rent
- When such emergency is not present, 14 calendar days in the case of failure to pay rent
- A reasonable period of time considering the seriousness of the situation (but not to exceed 30 calendar days)

  If the health or safety of other residents, HRA employees, or persons residing in the immediate vicinity of the premises is threatened

  If any member of the household has engaged in any drug-related criminal activity or violent criminal activity

  If any member of the household has been convicted of a felony
- 30 calendar days in any other case, except that if a state or local law allows a shorter notice period, such shorter period shall apply

  HRA Policy

  The HRA will give written notice of 30 calendar days from the date the tenant receives the notice for nonpayment of rent (during nationwide emergency orders) or 14 calendar days from the date the tenant receives the notice for nonpayment of rent (upon expiration of nationwide emergency orders). For all other lease terminations, the HRA will give 30 days written notice or, if state or local law allows less than 30 days, such shorter notice will be given.

The Notice to Vacate that may be required under state or local law may be combined with or run concurrently with the notice of lease termination.

HRA Policy

Any Notice to Vacate or Notice to Quit that is required by state or local law will be combined with the Notice of Lease Termination under this section.

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Notice of Nonrenewal Due to Community Service Noncompliance [24 CFR 966.4(l)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)]

When the HRA finds that a family is in noncompliance with the community service requirement, the tenant and any other noncompliant resident must be notified in writing of this determination. Notices of noncompliance will be issued in accordance with the requirements and policies in Section 11-I.E.

HRA Policy

If after receiving a notice of initial noncompliance the family does not request a grievance hearing, or does not take either corrective action required by the notice within the required timeframe, a termination notice will be issued in accordance with the policies above.

If a family agreed to cure initial noncompliance by signing an agreement and is still in noncompliance after being provided the 12-month opportunity to cure, the family will be issued a notice of continued noncompliance. The notice of continued noncompliance will be sent in accordance with the policies in Section 11-I.E. and will also serve as the notice of termination of tenancy.

Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]

In cases where termination of tenancy is based on citizenship status, HUD requires the notice of termination to contain additional information. In addition to advising the family of the reasons their assistance is being terminated, the notice must also advise the family of any of the following that apply: the family's eligibility for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, the family's right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal, and the family's right to request an informal hearing with the HRA either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Please see Chapter 14 for the HRA's informal hearing procedures.

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13-IV.E. EVICTION [24 CFR 966.4(l)(4) and 966.4(m)]

Eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The HRA may only evict the tenant from the unit by instituting a court action, unless the law of the jurisdiction permits eviction by administrative action, after a due process administrative hearing, and without a court determination of the rights and liabilities of the parties.

HRA Policy

When a family does not vacate the unit after receipt of a termination notice, by the deadline given in the notice, the HRA will follow state and local landlord-tenant law in filing an eviction action with the local court that has jurisdiction in such cases.

If the eviction action is finalized in court and the family remains in occupancy beyond the deadline to vacate given by the court, the HRA will seek the assistance of the court to remove the family from the premises as per state and local law.

The HRA may not proceed with an eviction action if the HRA has not made available the documents to be used in the case against the family, and has not afforded the family the opportunity to examine and copy such documents in accordance with the provisions of 24 CFR 966.4(l)(3) and (m).

13-IV.F. NOTIFICATION TO POST OFFICE [24CFR 966.4(l)(5)(iii)(B)]

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

13-IV.G. RECORD KEEPING

For more information concerning general record keeping, see Chapter 16.

HRA Policy

A written record of every termination and/or eviction will be maintained by the HRA at the development where the family was residing, and will contain the following information:

Name of resident, number and identification of unit occupied

Date of the notice of lease termination and any other notices required by state or local law; these notices may be on the same form and will run concurrently

Specific reason(s) for the notices, citing the lease section or provision that was violated, and other facts pertinent to the issuing of the notices described in detail (other than any criminal history reports obtained solely through the authorization provided in 24 CFR 5.903 and 5.905)

Date and method of notifying the resident

Summaries of any conferences held with the resident including dates, names of conference participants, and conclusions

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Chapter 14

GRIEVANCES AND APPEALS

INTRODUCTION

This chapter discusses grievances and appeals pertaining to HRA actions or failures to act that adversely affect public housing applicants or residents. The policies are discussed in the following three parts:

Part I: Informal Hearings for Public Housing Applicants. This part outlines the requirements and procedures for informal hearings for public housing applicants.

Part II: Informal Hearings with Regard to Noncitizens. This part discusses informal hearings regarding citizenship status and where they differ from the requirements for general applicant and tenant grievances.

Part III: Grievance Procedures for Public Housing Residents. This part outlines the requirements and procedures for handling grievances for public housing residents.

Note that this chapter is not the HRA's grievance procedure. The grievance procedure is a document separate from the ACOP. This chapter of the ACOP provides the policies that drive the grievance procedure. A sample grievance procedure is provided as Exhibit 14-1. However, please note that the procedure provided is only a sample and is designed to match up with the default policies in the model ACOP. As such, the HRA would need to modify accordingly should any alternative policy decisions be adopted.

PART I: INFORMAL HEARINGS FOR PUBLIC HOUSING APPLICANTS

14-I.A. OVERVIEW

When the HRA makes a decision that has a negative impact on an applicant family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal hearing. HUD regulations do not provide a structure for or requirements regarding informal hearings for applicants (except with regard to citizenship status, to be covered in Part II). This part discusses the HRA policies necessary to respond to applicant appeals through the informal hearing process.

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14-I.B. INFORMAL HEARING PROCESS [24 CFR 960.208(a) and PH Occ GB, p. 58]

Informal hearings are provided for public housing applicants. An applicant is someone who has applied for admission to the public housing program but is not yet a tenant in the program. Informal hearings are intended to provide a means for an applicant to dispute a determination of ineligibility for admission to a project [24 CFR 960.208(a)]. Applicants to public housing are not entitled to the same hearing process afforded tenants under the HRA grievance procedures [24 CFR 966.53(a) and PH Occ GB, p. 58].

Informal hearings provide applicants the opportunity to review the reasons for denial of admission and to present evidence to refute the grounds for denial.

Use of Informal Hearing Process

While the HRA must offer the opportunity of an informal hearing to applicants who have been determined as ineligible for admission, the HRA could make the informal hearing process available to applicants who wish to dispute other HRA actions that adversely affect them.

HRA Policy

The HRA will only offer informal hearings to applicants for the purpose of disputing denials of admission.

Notice of Denial [24 CFR 960.208(a)]

The HRA must give an applicant prompt notice of a decision denying eligibility for admission. The notice must contain a brief statement of the reasons for the HRA decision and must also state that the applicant may request an informal hearing to dispute the decision. The notice must describe how to obtain the informal hearing.

HRA Policy

As applicable, the HRA's notice of denial will include information about required or requested remote informal hearings.

When denying eligibility for admission, the HRA must provide the family a notice of VAWA rights (form HUD-5380) as well as the HUD VAWA self-certification form (form HUD-5382) in accordance with the Violence against Women Act, and as outlined in 16-VII.C. The notice and self-certification form must accompany the written notification of the denial of eligibility determination.

Prior to notification of denial based on information obtained from criminal or sex offender registration records, the family, in some cases, must be given the opportunity to dispute the information in those records which would be the basis of the denial. See Section 3-III.G for details concerning this requirement.

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Scheduling an Informal Hearing

HRA Policy

A request for an informal hearing must be made in writing and delivered to the HRA either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of the HRA's notification of denial of admission.

The HRA will schedule and send written notice of the informal hearing within 10 business days of the family's request.

If the HRA informal hearing will be conducted remotely, at the time the notice is sent to the family, the family will be informed:

Regarding the processes involved in a remote informal hearing;

That the HRA will provide technical assistance prior to and during the informal hearing, if needed; and

That if the family or any individual witness has any technological, resource, or accessibility barriers preventing them from fully accessing the remote informal hearing, the family may inform the HRA and the HRA will assist the family in either resolving the issues or allow the family to participate in an in-person informal hearing, as appropriate.

Conducting an Informal Hearing [PH Occ GB, p. 58]

HRA Policy

The informal hearing will be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant will be provided an opportunity to present written or oral objections to the decision of the HRA.

The person conducting the informal hearing will make a recommendation to the HRA, but the HRA is responsible for making the final decision as to whether admission should be granted or denied.

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Remote Informal Hearings [Notice PIH 2020-32]

There is no requirement that informal hearings be conducted in-person, and as such, HUD allows HRAs to conduct all or a portion of their informal hearings remotely either over the phone, via video conferencing, or through other virtual platforms. If the HRA chooses to conduct remote informal hearings, applicants may still request an in-person informal hearing, as applicable.

HRA Policy

The HRA has the sole discretion to require that informal hearings be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.

In addition, the HRA will conduct an informal hearing remotely upon request of the applicant as a reasonable accommodation for a person with a disability, if an applicant does not have child care or transportation that would enable them to attend the informal hearing, or if the applicant believes an in-person informal hearing would create an undue health risk. The HRA will consider other reasonable requests for a remote informal hearing on a case-by-case basis.

Ensuring Accessibility for Persons with Disabilities and LEP Individuals

As with in-person informal hearings, the platform for conducting remote informal hearings must be accessible to persons with disabilities and the informal hearing must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual. HRAs may never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote informal hearings.

If no method of conducting a remote informal hearing is available that appropriately accommodates an individual's disability, the HRA may not hold against the individual their inability to participate in the remote informal review, and the HRA should consider whether postponing the remote informal hearing to a later date is appropriate or whether there is a suitable alternative.

Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation, will depend on the specific circumstances and requirements.

As with in-person hearings, Limited English Proficiency (LEP) requirements also apply to remote informal hearings, including the use of interpretation services and document translation. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements, all of which apply in the context of remote informal hearings.

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Conducting Remote Informal Hearings [Notice PIH 2020-32]

The HRA must ensure that the lack of technology or inability to use technology for remote informal hearings does not pose a disadvantage to families that may not be apparent to the HRA. The HRA should determine through a survey or other means if these barriers exist prior to conducting the remote informal hearing and, if the family does not have the proper technology to fully participate, either postpone the informal hearing or provide an alternative means of access.

As with in-person informal hearings, the HRA must provide all materials presented, whether paper or electronic, to the family prior to the remote informal hearing. The family must also be provided with an accessible means by which to transmit their own evidence.

The HRA must ensure that the applicant has the right to hear and be heard. All HRA policies and processes for remote informal hearings will be conducted in accordance with due process requirements and will be in compliance with HUD regulations at 24 CFR 966.56 and the guidance for conducting remote hearings specified in Notice PIH 2020-32.

HRA Policy

The HRA will conduct remote informal hearings via a video conferencing platform, when available. If, after attempting to resolve any barriers, applicants are unable to adequately access the video conferencing platform at any point, or upon applicant request, the informal hearing will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in at any point, the remote informal hearing will be postponed, and an in-person alternative will be provided promptly within a reasonable time.

At least five business days prior to scheduling the remote hearing, the HRA will provide the family with login information and/or conferencing call-in information and an electronic copy of all materials being presented via first class mail and/or email. The notice will advise the family of technological requirements for the hearing and request the family notify the HRA of any known barriers. The HRA will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person hearing.

If the informal hearing is to be conducted remotely, the HRA will require the family to provide any documents directly relevant to the informal hearing at least 24 hours before the scheduled hearing through the mail, via email, or text. The HRA will scan and email copies of these documents to the HRA representative and to the person conducting the informal hearing the same day.

Documents will be shared electronically whenever possible.

The HRA will follow up the email with a phone call and/or email to the applicant at least one business day prior to the remote informal hearing to ensure that the applicant received all information and is comfortable accessing the video conferencing or call-in platform.

The HRA will ensure that all electronic information stored or transmitted with respect to the informal hearing is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP.

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Informal Hearing Decision [PH Occ GB, p. 58]

HRA Policy

The HRA will notify the applicant of the HRA's final decision, including a brief statement of the reasons for the final decision.

In rendering a decision, the HRA will evaluate the following matters:

Whether or not the grounds for denial were stated factually in the notice

The validity of grounds for denial of admission. If the grounds for denial are not specified in the regulations or in HRA policy, then the decision to deny assistance will be overturned. See Chapter 3 for a detailed discussion of the grounds for applicant denial.

The validity of the evidence. The HRA will evaluate whether the facts presented prove the grounds for denial of admission. If the facts prove that there are grounds for denial, and the denial is required by HUD, the HRA will uphold the decision to deny admission.

If the facts prove the grounds for denial, and the denial is discretionary, the HRA will consider the recommendation of the person conducting the informal hearing in making the final decision whether to deny admission.

The HRA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed, with return receipt requested, within 10 business days of the informal hearing, to the applicant and their representative, if any.

If the informal hearing decision overturns the denial, processing for admission will resume.

If the family fails to appear for their informal hearing, the denial of admission will stand and the family will be so notified.

Reasonable Accommodation for Persons with Disabilities [24 CFR 966.7]

Persons with disabilities may request reasonable accommodations to participate in the informal hearing process and the HRA must consider such accommodations. The HRA must also consider reasonable accommodation requests pertaining to the reasons for denial if related to the person's disability. See Chapter 2 for more detail pertaining to reasonable accommodation requests.

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PART II: INFORMAL HEARINGS WITH REGARD TO NONCITIZENS

14-II.A. HEARING AND APPEAL PROVISIONS FOR NONCITIZENS [24 CFR 5.514]

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. These special hearings are referred to in the regulations as informal hearings, but the requirements for such hearings are different from the informal hearings used to deny applicants for reasons other than immigration status.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the HRA hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the HRA informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]

As discussed in Chapters 3 and 13, the notice of denial or termination of assistance for noncitizens must advise the family of any of the following that apply:

- That financial assistance will be denied or terminated and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a tenant, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with the HRA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

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United States Citizenship and Immigration Services Appeal Process [24 CFR 5.514(e)]

When the HRA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the HRA must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide the HRA with a copy of the written request for appeal and proof of mailing.

HRA Policy

The HRA will notify the family in writing of the results of the USCIS secondary verification within 10 business days of receiving the results.

The family must provide the HRA with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to the HRA, of its decision. When the USCIS notifies the HRA of the decision, the HRA must notify the family of its right to request an informal hearing.

HRA Policy

The HRA will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the family's immigration status.

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Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, an applicant family may request that the HRA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the HRA notice of denial, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

Informal Hearing Officer

The HRA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision.

Evidence

The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of the HRA pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

HRA Policy

The family will be allowed to copy any documents related to the hearing at no cost to the family. The family must request discovery of HRA documents no later than 12:00 p.m. on the business day prior to the hearing.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by the HRA, and to confront and cross-examine all witnesses on whose testimony or information the HRA relies.

Representation and Interpretive Services

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to request an interpreter. The HRA is obligated to provide a competent interpreter, free of charge, upon request. The family may also or instead provide its own interpreter, at the expense of the family.

Recording of the Hearing

The family is entitled to have the hearing recorded by audiotape. The HRA may, but is not required to, provide a transcript of the hearing.

HRA Policy

The HRA will not provide a transcript of an audio taped informal hearing.

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Hearing Decision

The HRA must provide the family with a written notice of the final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The notice must state the basis for the decision.

Retention of Documents [24 CFR 5.514(h)]

The HRA must retain for a minimum of 5 years the following documents that may have been submitted to the HRA by the family, or provided to the HRA as part of the USCIS appeal or the HRA informal hearing process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

Informal Hearing Procedures for Residents [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, a resident family may request that the HRA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the HRA notice of termination, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for resident families whose tenancy is being terminated based on immigration status is the same as for any grievance under the grievance procedures for resident families found in Part III below.

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PART III: GRIEVANCE PROCEDURES FOR PUBLIC HOUSING RESIDENTS

14-III.A. REQUIREMENTS [24 CFR 966.52]

HRAs must have a grievance procedure in place through which residents of public housing are provided an opportunity to grieve any HRA action or failure to act involving the lease or HRA policies which adversely affect their rights, duties, welfare, or status. The HRA must not only meet the minimal procedural due process requirements provided under the regulations but must also meet any additional requirements imposed by local, state or federal law.

The HRA grievance procedure must be included in, or incorporated by reference in, the lease.

HRA Policy

The HRA grievance procedure will be incorporated by reference in the tenant lease.

The HRA must provide at least 30 days' notice to tenants and resident organizations setting forth proposed changes in the HRA grievance procedure and provide an opportunity to present written comments. Comments submitted must be considered by the HRA before adoption of any changes to the grievance procedure by the HRA.

HRA Policy

Residents and resident organizations will have 30 calendar days from the date they are notified by the HRA of any proposed changes in the HRA grievance procedure, to submit written comments to the HRA.

The HRA must furnish a copy of the grievance procedure to each tenant and to resident organizations.

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14-III.B. DEFINITIONS [24 CFR 966.53; 24 CFR 966.51(a)(2)(i)]

There are several terms used by HUD with regard to public housing grievance procedures, which take on specific meanings different from their common usage. These terms are as follows:

- **Grievance** – any dispute which a tenant may have with respect to HRA action or failure to act in accordance with the individual tenant's lease or HRA regulations which adversely affect the individual tenant's rights, duties, welfare or status
- **Complainant** – any tenant whose grievance is presented to the HRA or at the project management office
- **Due Process Determination** – a determination by HUD that law of the jurisdiction requires that the tenant must be given the opportunity for a hearing in court which provides the basic elements of due process before eviction from the dwelling unit
- **Expedited Grievance** – a procedure established by the HRA for any grievance or termination that involves:
  - Any criminal activity that threatens the health, safety, or right to peaceful enjoyment or the HRA's public housing premises by other residents or employees of the HRA; or
  - Any drug-related criminal activity on or off the premises
- **Elements of Due Process** – an eviction action or a termination of tenancy in a state or local court in which the following procedural safeguards are required:
  - Adequate notice to the tenant of the grounds for terminating the tenancy and for eviction
  - Right of the tenant to be represented by counsel
  - Opportunity for the tenant to refute the evidence presented by the HRA including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the tenant may have
  - A decision on the merits
- **Hearing Officer** – an impartial person or selected by the HRA, other than the person who made or approved the decision under review, or a subordinate of that person. The individual or individuals do not need legal training.
- **Tenant** – the adult person (or persons) (other than a live-in aide)
  - Who resides in the unit, and who executed the lease with the HRA 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

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14-III.C. APPLICABILITY [24 CFR 966.51]

Grievances could potentially address most aspects of An HRA's operation. However, there are some situations for which the grievance procedure is not applicable.

The grievance procedure is applicable only to individual tenant issues relating to the HRA. It is not applicable to disputes between tenants not involving the HRA. Class grievances are not subject to the grievance procedure and the grievance procedure is not to be used as a forum for initiating or negotiating policy changes of the HRA.

If HUD has issued a due process determination, An HRA may exclude from the HRA 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 HRA;
- Any violent or drug-related criminal activity on or off such premises; or
- Any criminal activity that resulted in felony conviction of a household member

In states without due process determinations, HRAs must grant opportunity for grievance hearings for all lease terminations, regardless of cause, with the following exception: HRAs may use expedited grievance procedures for the excluded categories listed above. These expedited grievance procedures are described in Section 14-III.E. below.

If HUD has issued a due process determination, the HRA may evict through the state/local judicial eviction procedures. In this case, the HRA is not required to provide the opportunity for a hearing under the HRA's grievance procedure as described above.

HRA Policy

The HRA will grant opportunity for grievance hearings for all lease terminations, regardless of cause.

See Chapter 13 for related policies on the content of termination notices.

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14-III.D. INFORMAL SETTLEMENT OF GRIEVANCE [24 CFR 966.54]

HUD regulations state that any grievance must be personally presented, either orally or in writing, to the HRA office or to the office of the housing development in which the complainant resides so that the grievance may be discussed informally and settled without a hearing.

HRA Policy

The HRA will accept requests for an informal settlement of a grievance either orally or in writing (including emailed requests), to the HRA office within 10 business days of the grievable event. Within 10 business days of receipt of the request the HRA will arrange a meeting with the tenant at a mutually agreeable time and confirm such meeting in writing to the tenant. The informal settlement may be conducted remotely as required by the HRA or may be conducted remotely upon consideration of the request of the tenant. See 14-III.G for information on how and under what circumstances remote informal settlements may be conducted.

If a tenant fails to attend the scheduled meeting without prior notice, the HRA will reschedule the appointment only if the tenant can show good cause for failing to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family.

HUD regulations require that a summary of such discussion will be prepared within a reasonable time and one copy will be given to the tenant and one retained in the HRA's tenant file.

The summary must specify the names of the participants, dates of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefore, and will specify the procedures by which a hearing may be obtained if the complainant is not satisfied.

HRA Policy

The HRA will prepare a summary of the informal settlement within five business days; one copy to be given to the tenant and one copy to be retained in the HRA's tenant file.

For HRAs who have the option to establish an expedited grievance procedure, and who exercise this option, the informal settlement of grievances is not applicable to those grievances for which the expedited grievance procedure applies.

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14-III.E. PROCEDURES TO OBTAIN A HEARING

Requests for Hearing and Failure to Request

HRA Policy

The resident must submit a written request (including emailed requests) for a grievance hearing to the HRA within five business days of the tenant's receipt of the summary of the informal settlement.

If the complainant does not request a hearing, the HRA's disposition of the grievance under the informal settlement process will become final. However, failure to request a hearing does not constitute a waiver by the complainant of the right to contest the HRA's action in disposing of the complaint in an appropriate judicial proceeding.

Scheduling of Hearings [24 CFR 966.56(a)]

If the complainant has complied with all requirements for requesting a hearing as described above, a hearing must be scheduled by the hearing officer promptly for a time and place reasonably convenient to both the complainant and the HRA. A written notification specifying the time, place and the procedures governing the hearing must be delivered to the complainant and the appropriate HRA official.

HRA Policy

Within 10 business days of receiving a written request for a hearing, the hearing officer will schedule and send written notice of the hearing to both the complainant and the HRA.

If the HRA hearing will be conducted remotely, at the time the notice is sent to the family, the family will be notified:

Regarding the processes involved in a remote grievance hearing;

That the HRA will provide technical assistance prior to and during the hearing, if needed; and

That if the family or any individual witness has any technological, resource, or accessibility barriers, the family may inform the HRA and the HRA will assist the family in either resolving the issue or allow the family to participate in an in-person hearing, as appropriate.

The HRA may wish to permit the tenant to request to reschedule a hearing for good cause.

HRA Policy

The tenant may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, the HRA may request documentation of the "good cause" prior to rescheduling the hearing.

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Expedited Grievance Procedure [24 CFR 966.52(a)]

The HRA may establish an expedited grievance procedure for any grievance concerning a termination of tenancy or eviction that involves:

- Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or employees of the HRA;
- Any drug-related criminal activity on or near such premises; or
- Any criminal activity that resulted in felony conviction of a household member.

In such expedited grievances, the informal settlement of grievances as discussed in 14-III.D is not applicable.

The HRA may adopt special procedures concerning expedited hearings, including provisions for expedited notice or scheduling, or provisions for expedited decision on the grievance.

HRA Policy

The HRA will not offer expedited grievance procedures.

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14-III.F. SELECTION OF HEARING OFFICER [24 CFR 966.53(e)]

The grievance hearing must be conducted by an impartial person or persons appointed by the HRA, other than the person who made or approved the HRA action under review, or a subordinate of such person. The HRA must describe their policies for selection of a hearing officer in their lease.

HRA Policy

HRA grievance hearings will be conducted by a single hearing officer and not a panel.

The HRA will appoint a staff member who was not involved in the decision under appeal. If a designated staff member (such as the program manager) was involved in the decision, or is a subordinate of such person, an alternate hearing officer will be selected.

The HRA may select designated staff members who were not involved in the decision under appeal in certain circumstances, such as appeals involving discrimination claims or denials of requests for reasonable accommodations.

HRAs must describe their policies for selection of a hearing officer in their lease forms. Changes to the public housing lease are subject to a 30-day comment period [24 CFR 966.4].

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14-III.G. REMOTE HEARINGS [Notice PIH 2020-32]

There is no requirement that grievance hearings be conducted in-person, and as such, HUD allows HRAs to conduct all or a portion of their grievance hearings remotely either over the phone, via video conferencing, or through other virtual platforms. If the HRA chooses to conduct remote grievance hearings, applicants may still request an in-person hearing, as applicable.

HRA Policy

The HRA has the sole discretion to require that hearings be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.

In addition, the HRA will conduct a hearing remotely upon request as a reasonable accommodation for a person with a disability, if a tenant does not have child care or transportation that would enable them to attend the hearing, or if the tenant believes an in-person hearing would create an undue health risk. The HRA will consider other reasonable requests for a remote hearing on a case-by-case basis.

Discovery of Documents Before the Remote Hearing

HRA Policy

If the hearing will be conducted remotely, the HRA will compile a hearing packet, consisting of all documents the HRA intends to produce at the hearing. The HRA will mail copies of the hearing packet to the tenant, the tenant's representatives, if any, and the hearing officer at least three days before the scheduled remote hearing. The original hearing packet will be in the possession of the HRA representative and retained by the HRA.

If the hearing is to be conducted remotely, the HRA will require the resident to provide any documents directly relevant to the hearing at least 24 hours before the scheduled hearing through the mail, via email, or text. The HRA will scan and email copies of these documents to the hearing officer and the HRA representative the same day they are received.

Documents will be shared electronically whenever possible.

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Ensuring Accessibility for Persons with Disabilities ad LEP Individuals

As with in-person grievance hearings, the platform for conducting remote grievance hearings must be accessible to persons with disabilities and the grievance hearings must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual. HRAs may never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote grievance hearings.

If no method of conducting a remote grievance hearing is available that appropriately accommodates an individual's disability, the HRA may not hold against the individual their inability to participate in the remote grievance hearing, and the HRA should consider whether postponing the remote hearing to a later date is appropriate or whether there is a suitable alternative.

Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation will depend on the specific circumstances and requirements.

As with in-person reviews, Limited English Proficiency (LEP) requirements also apply to remote grievance hearings, including the use of interpretation services and document translation. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements, all of which apply in the context of remote grievance hearings.

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Conducting Hearings Remotely

The HRA must ensure that the lack of technology or inability to use technology for remote grievance hearings does not pose a disadvantage to families that may not be apparent to the HRA. The HRA should determine through a survey or other means if these barriers exist prior to conducting the remote grievance hearing and, if the family does not have the proper technology to fully participate, either postpone the hearing or provide an alternative means of access.

As with in-person grievance hearings, the HRA must provide all materials presented, whether paper or electronic, to the family prior to the remote grievance hearing. The family must also be provided with an accessible means by which to transmit their own evidence.

The HRA's essential responsibility is to ensure grievance hearings meet the requirements of due process and comply with HUD regulations. Therefore, all HRA policies and processes for remote grievance hearings will be conducted in accordance with due process requirements and will be in compliance with HUD regulations at 24 CFR 966.56 and the guidance for conducting remote hearings specified in Notice PIH 2020-32.

HRA Policy

The HRA will conduct remote grievance hearings via a video conferencing platform, when available. If, after attempting to resolve any barriers, participants are unable to adequately access the video conferencing platform at any point, or upon request, the grievance hearing will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in at any point, the remote grievance hearing will be postponed, and an in-person alternative will be provided promptly within a reasonable time.

At least five business days prior to scheduling the remote hearing, the HRA will provide the family with login information and/or conferencing call-in information and an electronic copy of all materials being presented via first class mail and/or email. The notice will advise the family of technological requirements for the hearing and request the family notify the HRA of any known barriers. The HRA will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person hearing.

The HRA will follow up with a phone call and/or email to the family at least one business day prior to the remote grievance hearing to ensure that the family received all information and is comfortable accessing the video conferencing or call-in platform.

The HRA will ensure that all electronic information stored or transmitted with respect to the grievance hearing is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP.

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14-III.H. PROCEDURES GOVERNING THE HEARING [24 CFR 966.56]

Rights of Complainant [24 CFR 966.56(b)]

The complainant will be afforded a fair hearing. This includes:

- The opportunity to examine before the grievance hearing any HRA documents, including records and regulations that are directly relevant to the hearing. The tenant must be allowed to copy any such document at the tenant's expense. If the HRA does not make the document available for examination upon request by the complainant, the HRA may not rely on such document at the grievance hearing.

  HRA Policy

  The tenant will be allowed to copy any documents related to the hearing at no cost to the family. There will be no charge for documents emailed by the HRA. The family must request discovery of HRA documents no later than 12:00 p.m. on the business day prior to the hearing.

- The right to be represented by counsel or other person chosen to represent the tenant, and to have such person make statements on the tenant's behalf.

  HRA Policy

  Hearings may be attended by the following applicable persons:

  The HRA representatives and any witnesses for the HRA

  The tenant and any witnesses for the tenant

  The tenant's counsel or other representative

  Any other person approved by the HRA as a reasonable accommodation for a person with a disability

- The right to a private hearing unless the complainant requests a public hearing.
- The right to present evidence and arguments in support of the tenant's complaint, to controvert evidence relied on by the HRA or project management, and to confront and cross-examine all witnesses upon whose testimony or information the HRA or project management relies.
- A decision based solely and exclusively upon the facts presented at the hearing.

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Failure to Appear [24 CFR 966.56(c)]

If the complainant or the HRA fails to appear at a scheduled hearing, the hearing officer may make a determination to postpone the hearing for no more than five business days or may make a determination that the party has waived their right to a hearing. Both the complainant and the HRA must be notified of the determination by the hearing officer: Provided, That a determination that the complainant has waived their right to a hearing will not constitute a waiver of any right the complainant may have to contest the HRA's disposition of the grievance in an appropriate judicial proceeding.

There may be times when a complainant does not appear due to unforeseen circumstances which are out of their control and are no fault of their own.

HRA Policy

If the tenant does not appear at the scheduled time of the hearing, the hearing officer will wait up to 30 minutes. If the tenant appears within 30 minutes of the scheduled time, the hearing will be held. If the tenant does not arrive within 30 minutes of the scheduled time, they will be considered to have failed to appear.

If the tenant fails to appear and was unable to reschedule the hearing in advance, the tenant must contact the HRA within 24 hours of the scheduled hearing date, excluding weekends and holidays. The hearing officer will reschedule the hearing only if the tenant can show good cause for the failure to appear, or it is needed as a reasonable accommodation for a person with disabilities.

"Good cause" is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family.

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General Procedures [24 CFR 966.56(d), (e)]

At the hearing, the complainant must first make a showing of an entitlement to the relief sought and thereafter the HRA must sustain the burden of justifying the HRA action or failure to act against which the complaint is directed [24 CFR 966.56(d)].

The hearing is conducted informally by the hearing officer. The HRA and the tenant must be given the opportunity to present oral or documentary evidence pertinent to the facts and issues raised by the complaint, and to question any witnesses.

HRA Policy

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

Oral evidence: the testimony of witnesses

Documentary evidence: a writing which is relevant to the case, for example, a letter written to the HRA. Writings include all forms of recorded communication or representation, including letters, emails, words, pictures, sounds, videotapes or symbols or combinations thereof.

Demonstrative evidence: Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.

Real evidence: A tangible item relating directly to the case.

Hearsay Evidence is evidence based not on a witness' personal knowledge. In and of itself, hearsay evidence carries no weight when making a finding of fact. The hearing officer may include hearsay evidence when considering their decision if it is corroborated by other evidence. Even though hearsay evidence is generally admissible in a hearing, the hearing officer will not base a hearing decision on hearsay alone unless there is clear probative value and credibility of the evidence, and the party seeking the change has met the burden of proof.

If the HRA fails to comply with the discovery requirements (providing the tenant with the opportunity to examine HRA documents prior to the grievance hearing), the hearing officer will refuse to admit such evidence.

Other than the failure of the HRA to comply with discovery requirements, the hearing officer has the authority to overrule any objections to evidence.

The complainant or the HRA may arrange, in advance and at the expense of the party making the arrangement, for a transcript of the hearing. Any interested party may purchase a copy of such transcript [24 CFR 966.56(e)].

HRA Policy

If the complainant would like the HRA to record the proceedings by audiotape, the request must be made to the HRA by 12:00 p.m. on the business day prior to the hearing.

The HRA will consider that an audio tape recording of the proceedings is a transcript.

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Accommodations of Persons with Disabilities [24 CFR 966.56(f)]

The HRA must provide reasonable accommodation for persons with disabilities to participate in the hearing. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants.

If the tenant is visually impaired, any notice to the tenant which is required in the grievance process must be in an accessible format.

See Chapter 2 for a thorough discussion of the HRA's responsibilities pertaining to reasonable accommodation.

Limited English Proficiency (24 CFR 966.56(g)

The HRA must comply with HUD's LEP Final Rule in providing language services throughout the grievance process.

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14-III.I. DECISION OF THE HEARING OFFICER [24 CFR 966.57]

The hearing officer must issue a written decision, stating the reasons for the decision, within a reasonable time after the hearing. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the decision must be sent to the complainant and the HRA. The HRA must retain a copy of the decision in the tenant's folder. A log of all hearing officer decisions must also be maintained by the HRA and made available for inspection by a prospective complainant, their representative, or the hearing officer [24 CFR 966.57(a)].

HRA Policy

In rendering a decision, the hearing officer will consider the following matters:

HRA Notice to the Family: The hearing officer will determine if the reasons for the HRA's decision are factually stated in the notice.

Discovery: The hearing officer will determine if the family was given the opportunity to examine any relevant documents in accordance with HRA policy.

HRA Evidence to Support the HRA Decision: The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support the HRA's conclusion.

Validity of Grounds for Termination of Tenancy (when applicable): The hearing officer will determine if the termination of tenancy is for one of the grounds specified in the HUD regulations and HRA policies. If the grounds for termination are not specified in the regulations or in compliance with HRA policies, then the decision of the HRA will be overturned.

The hearing officer will issue a written decision to the family and the HRA no later than 10 business days after the hearing. The report will contain the following information:

Hearing information:

Name of the complainant

Date, time and place of the hearing

Name of the hearing officer

Name of the HRA representatives

Name of family representative (if any)

Names of witnesses (if any)

Background: A brief, impartial statement of the reason for the hearing and the date(s) on which the informal settlement was held, who held it, and a summary of the results of the informal settlement. Also includes the date the complainant requested the grievance hearing.

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Summary of the Evidence: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of their testimony and that are admitted into evidence.

Findings of Fact: The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Conclusions: The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the HRA's decision.

Order: The hearing report will include a statement of whether the HRA's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the HRA to change the decision in accordance with the hearing officer's determination. In the case of termination of tenancy, the hearing officer will instruct the HRA to restore the family's status.

Procedures for Further Hearing

HRA Policy

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of the HRA will take effect and another hearing will not be granted.

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Final Decision [24 CFR 966.57(b)]

The decision of the hearing officer is binding on the HRA which must take the action, or refrain from taking the action cited in the decision unless the HRA Board of Commissioners determines within a reasonable time, and notifies the complainant that:

- The grievance does not concern HRA action or failure to act in accordance with or involving the complainant's lease on HRA policies which adversely affect the complainant's rights, duties, welfare, or status; or
- The decision of the hearing officer is contrary to federal, state, or local law, HUD regulations or requirements of the annual contributions contract between HUD and the HRA

HRA Policy

When the HRA considers the decision of the hearing officer to be invalid due to the reasons stated above, it will present the matter to the HRA Board of Commissioners within 10 business days of the date of the hearing officer's decision. The Board has 30 calendar days to consider the decision. If the Board decides to reverse the hearing officer's decision, it must notify the complainant within 10 business days of this decision.

A decision by the hearing officer or Board of Commissioners in favor of the HRA or which denies the relief requested by the complainant in whole or in part must not constitute a waiver of any rights, nor effect in any manner whatever, any rights the complainant may have to a subsequent trial or judicial review in court [24 CFR 966.57(c)].

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EXHIBIT 14-1: GRIEVANCE PROCEDURE

I. Introduction

Public housing tenants have the right to request a grievance hearing for any HRA action or failure to act in accordance with the tenant's lease.

Grievance procedures do not apply in the following circumstances:

A. Disputes between tenants not involving the HRA or class grievances [24 CFR 966.51(b)].

B. The grievance procedure is not intended as a forum for initiating or negotiating policy changes between a group or groups of tenants and the HRA's Board of Commissioners [24 CFR 966.51(b)].

C. When the HRA is in a HUD-declared due process state, HUD allows the HRA to exclude from the HRA grievance procedure any grievance concerning a termination of tenancy or eviction that involves:

   i. Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of the HRA;

   ii. Any violent or drug-related criminal activity on or off such premises; or

   iii. Any criminal activity that resulted in felony conviction of a household member [24 CFR 966.51(a)(2)].

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II. Definitions [24 CFR 966.53]

A. **Grievance:** Any dispute a tenant may have with respect to HRA action or failure to act in accordance with the individual tenant's lease or HRA regulations that adversely affects the individual tenant's rights, duties, welfare, or status.

B. **Complainant:** Any tenant (as defined below) whose grievance is presented to the HRA or at the project management office in accordance with the requirements presented in this procedure.

C. **Elements of due process:** An eviction action or a termination of tenancy in a state or local court in which the following procedural safeguards are required:

i. Adequate notice to the tenant of the grounds for terminating the tenancy and for eviction

ii. Right of the tenant to be represented by counsel

iii. Opportunity for the tenant to refute the evidence presented by the HRA, including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense that the tenant may have

iv. A decision on the merits of the case

D. **Hearing officer:** An impartial person or persons selected by the HRA other than the person who made or approved the decision under review, or a subordinate of that person. Such individuals do not need legal training.

E. **Tenant:** The adult person (or persons other than a live-in aide) who resides in the unit and who executed the lease with the HRA as lessee of the dwelling unit, or if no such person now resides in the unit, the person who resides in the unit and is the remaining head of the household of the tenant family residing in the dwelling unit.

F. **Resident organization:** An organization of residents, which also may include a resident management corporation.

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III. This grievance procedure [24 CFR 966.51]

This grievance procedure is included by reference in all tenant dwelling leases and will be furnished to each tenant and all resident organizations [24 CFR 966.52 (b) and (d)].

Any changes proposed in this grievance procedure must provide for at least 30 days' notice to tenants and resident organizations, explaining the proposed changes and providing an opportunity to present written comments. Comments will be considered by the HRA before any revisions are made to the grievance procedure [24 CFR 966.52(c)].

IV. Informal settlement of a grievance [24 CFR 966.54]

Any grievance request must be personally presented, either orally or in writing (including email), to the HRA's central office or the management office of the development in which the tenant resides within 10 days after the violation.

As soon as the grievance request is received, it will be reviewed by the HRA to ensure it meets the requirements for a grievance hearing. If the tenant is not entitled to a grievance, the HRA will notify the tenant that they may instead seek judicial review and the procedures for requesting such a review [24 CFR 966.4(l)(3)(i)(C)(v)(B)].

Otherwise, within 10 business days, the tenant will be contacted to arrange a mutually convenient time to meet so the grievance may be discussed and settled without a hearing. At the informal settlement, the tenant will present their grievance.

Within five business days following the informal settlement, the HRA will prepare and either hand deliver, mail, or email to the tenant a summary of the discussion. The summary will specify the names of the participants; the date of the meeting; the nature of the proposed resolution of the complaint, with specific reason(s); and will specify the procedures by which a formal hearing under this procedure may be obtained if the tenant is not satisfied [24 CFR 966.54]. A copy of this summary will also be placed in the tenant's file.

V. Requesting a formal grievance hearing

If the tenant is not satisfied with the outcome of the informal settlement, the tenant must submit a written request for a hearing to the management office of the development where the tenant lives no later than five business days after receiving the summary of the informal settlement.

The written request must specify the reasons for the request and the action or relief sought from the HRA.

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VI. Selecting the hearing officer

A grievance hearing will be conducted by an impartial person appointed by the HRA as described below:

A. The hearing officer will be appointed directly by the executive director.

B. The hearing officer will be someone who did not make or approve the decision under review and who is not a subordinate of such persons [24 CFR 066.54(e)].

C. The HRA's method for selecting a hearing officer will be included in the lease [24 CFR 966.54(e)].

VII. Scheduling hearings [24 CFR 966.56(a)]

When a tenant submits a timely request for a grievance hearing, the HRA will immediately appoint an impartial hearing officer.

Once the hearing has been scheduled, the tenant will receive written notice of the hearing, sent by mail or email, return receipt requested.

Within 10 days of receiving the written request, the hearing will be scheduled. The tenant, HRA, and hearing officer will be notified in writing of the date, time and location of the hearing. If the hearing will be held remotely, the HRA will also include information on the remote hearing process.

The tenant may request to reschedule a hearing once. Should the tenant need to reschedule a second time, they may only do so for good cause, or if needed as a reasonable accommodation for a person with disabilities. *Good cause* is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family. Requests to reschedule a hearing must be made orally or in writing at least one day prior to the hearing date.

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VIII. Procedures governing the hearing [24 CFR 966.56]

The hearing will be held before a hearing officer as described above in Section VI. The tenant will be afforded a fair hearing, which will include:

A. The opportunity to examine any HRA documents before the hearing, including records and regulations, that are directly relevant to the hearing.

   The tenant must request to view and copy HRA documents relevant to the hearing by noon of the day before the hearing. The tenant is allowed to copy any such document at no cost to the tenant.

   If the HRA does not make the document available for examination upon request by the tenant, the HRA may not rely on such document at the grievance hearing.

B. The right to be represented by counsel or any other person chosen as the tenant's representative, at the tenant's expense, and to have such person make statements on the tenant's behalf.

C. The right to a private hearing unless the tenant requests a public hearing.

D. The right to present evidence and arguments in support of the tenant's complaint, to refute evidence relied on by the HRA or project management, and to confront and cross-examine all witnesses upon whose testimony or information the HRA or project management relies.

E. A decision based solely and exclusively upon the facts presented at the hearing [24 CFR 966.56(b)].

The hearing is conducted informally by the hearing officer. The HRA and the tenant must be given the opportunity to present oral or documentary evidence that is relevant to the facts and issues raised, and to question any witnesses.

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

The tenant or the HRA may arrange in advance for a transcript or recording of the hearing at the expense of the party making the arrangement.

The HRA must provide reasonable accommodation for persons with disabilities to participate in the hearing. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants. If the tenant is visually impaired, any notice to the tenant that is required under this procedure must be in an accessible format [24 CFR 966.56(f)].

The HRA must comply with HUD's requirements regarding limited English proficiency (LEP). The tenant has the right to request competent oral interpretation, free of charge. LEP requirements can be found at:
https://www.hud.gov/program_offices/fair_housing_equal_opp/promotingfh/lep-faq

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IX. Remote Hearings

The HRA has the authority to require that hearings be conducted remotely in certain situations.

X. Failure to appear at the hearing

If the tenant does not arrive within 15 minutes of the scheduled time, it will be considered a failure to appear, which means they have given up their right to a hearing.

Both the tenant and the HRA must be notified of the determination by the hearing officer. A determination that the tenant has waived their right to a hearing will not constitute a waiver of any right the tenant may have to contest the HRA's disposition of the grievance in an appropriate judicial setting [24 CFR 966.56(c)].

XI. Decision of the hearing officer [24 CFR 966.57]

The hearing officer will prepare a written decision together with the reasons for the decision within 10 business days after the hearing. A copy of the decision will be sent to the tenant and the HRA.

The HRA will retain a copy of the decision in the tenant's file.

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date before reaching a decision. If the family misses a deadline ordered by the hearing officer, the hearing officer will make a decision based on the evidence presented.

The decision of the hearing officer will be binding on the HRA unless the HRA's Board of Commissioners determines within a reasonable time and notifies the tenant of its determination that:

A. The grievance does not concern HRA action or failure to act in accordance with or involving the tenant's lease or HRA regulations, which adversely affect the tenant's rights, duties, welfare, or status; or

B. The decision of the hearing officer is contrary to applicable federal, state, or local law, HUD regulations, or requirements of the annual contributions contract (ACC) between HUD and the HRA.

When the HRA considers the decision of the hearing officer to be invalid for either of the reasons stated above, it will present the matter to the HRA Board of Commissioners within 10 business days of the date of the hearing officer's decision. The Board will have 30 calendar days to consider the decision. If the Board decides to reverse the hearing officer's decision, it must notify the tenant within 10 business days of this decision.

A decision by the hearing officer or Board of Commissioners in favor of the HRA or which denies the relief requested by the tenant, in whole or in part, will not constitute a waiver of nor affect in any way the tenant's right to a trial or judicial review in any court proceedings, which may be brought in the matter later [24 CFR 966.57].

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Chapter 15

PROGRAM INTEGRITY

INTRODUCTION

The HRA is committed to ensuring that funds made available to the HRA are spent in accordance with HUD requirements.

This chapter covers HUD and HRA policies designed to prevent, detect, investigate and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

Part I: Preventing, Detecting, and Investigating Errors and Program Abuse. This part presents HRA policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures the HRA must and may take when errors or program abuses are found.

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PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

15-I.A. PREVENTING ERRORS AND PROGRAM ABUSE

HUD created the Enterprise Income Verification (EIV) system to provide HRAs with a powerful tool for preventing errors and program abuse. HRAs are required to use the EIV system at annual reexamination in accordance with HUD administrative guidance [24 CFR 5.233]. HRAs are further required to:

- Provide applicants and residents with form HUD-52675, "Debts Owed to HRAs and Terminations"
- Require all adult members of an applicant or participant family to acknowledge receipt of form HUD-52675 by signing a copy of the form for retention in the family file

HRA Policy

The HRA anticipates that the vast majority of families and HRA employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure that the HRA's program is administered effectively and according to the highest ethical and legal standards, the HRA will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

The HRA will provide each applicant and resident with a copy of "Is Fraud Worth It?" (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse.

The HRA will provide each applicant and resident with a copy of "What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12. In addition, the HRA will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.

The HRA will require mandatory orientation sessions for all prospective residents either prior to or upon execution of the lease. The HRA will discuss program compliance and integrity issues. At the conclusion of all program orientation sessions, the family representative will be required to sign a program briefing certificate to confirm that all rules and pertinent regulations were explained to them.

The HRA will routinely provide resident counseling as part of every reexamination interview in order to clarify any confusion pertaining to program rules and requirements.

HRA staff will be required to review and explain the contents of all HUD- and HRA-required forms prior to requesting family member signatures.

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The HRA will place a warning statement about the penalties for fraud (as described in 18 U.S.C. 1001 and 1010) on key HRA forms and form letters that request information from a family member.

The HRA will provide each HRA employee with the necessary training on program rules and the organization's standards of conduct and ethics.

At every regular reexamination the HRA staff will explain any changes in HUD regulations or HRA policy that affect residents.

For purposes of this chapter the term *error* refers to an unintentional error or omission. *Program abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

15-I.B. DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, the HRA will use a variety of activities to detect errors and program abuse.

Quality Control and Analysis of Data

HRA Policy

The HRA will employ a variety of methods to detect errors and program abuse, including:

The HRA routinely will use EIV and other non-HUD sources of up-front income verification. This includes the Work Number and any other private or public databases available to the HRA.

At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.

The HRA will compare family-reported income and expenditures to detect possible unreported income.

Independent Audits and HUD Monitoring

Notice PIH 2015-16 requires all HRAs that expend $750,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of HRA activities and notifies the HRA of errors and potential cases of program abuse.

HRA Policy

The HRA will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of the HRA's error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

HRA Policy

The HRA will encourage staff, residents, and the public to report possible program abuse.

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15-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When the HRA Will Investigate

HRA Policy

The HRA will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for the HRA to investigate, the allegation must contain at least one independently-verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

The HRA will investigate when inconsistent or contradictory information is detected through file reviews and the verification process.

Consent to Release of Information [24 CFR 960.259]

The HRA may investigate possible instances of error or abuse using all available HRA and public records. If necessary, the HRA will require families to sign consent forms for the release of additional information.

Analysis and Findings

HRA Policy

The HRA will base its evaluation on a preponderance of the evidence collected during its investigation.

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

For each investigation the HRA will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed the HRA, and (3) what corrective measures or penalties will be assessed.

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Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether the HRA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

HRA Policy

In the case of family-caused errors or program abuse, the HRA will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, (4) the effects of a particular remedy on family members who were not involved in the offense.

Notice and Appeals

HRA Policy

The HRA will inform the relevant party in writing of its findings and remedies within 10 business days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which the HRA determined the error or program abuses, (3) the remedies to be employed, and (4) the family's right to appeal the results through an informal hearing or grievance hearing (see Chapter 14).

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PART II: CORRECTIVE MEASURES AND PENALTIES

15-II.A. UNDER- OR OVERPAYMENT

An under- or overpayment includes an incorrect tenant rent payment by the family, or an incorrect utility reimbursement to a family.

Corrections

Whether the incorrect rental determination is an overpayment or underpayment, the HRA must promptly correct the tenant rent and any utility reimbursement prospectively.

HRA Policy

Increases in the tenant rent will be implemented on the first of the month following a written 30 day notice.

Any decreases in tenant rent will become effective the first of the month following the discovery of the error.

Reimbursement

Whether the family is required to reimburse the HRA or the HRA is required to reimburse the family depends upon which party is responsible for the incorrect payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

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15-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE

General administrative requirements for participating in the program are discussed throughout the ACOP. This section deals specifically with errors and program abuse by family members.

An incorrect rent determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows the HRA to use incorrect information provided by a third party.

Family Reimbursement to HRA

HRA Policy

In the case of family-caused errors or program abuse, the family will be required to repay any amounts of rent underpaid. The HRA may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the amount owed, the HRA will terminate the family's lease in accordance with the policies in Chapter 13.

HRA Reimbursement to Family

HRA Policy

The HRA will not reimburse the family for any overpayment of rent when the overpayment clearly is caused by the family.

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Prohibited Actions

An applicant or resident in the public housing program must not knowingly:

- Make a false statement to the HRA [Title 18 U.S.C. Section 1001].
- Provide incomplete or false information to the HRA [24 CFR 960.259(a)(4)].
- Commit fraud, or make false statements in connection with an application for assistance or with reexamination of income [24 CFR 966.4(l)(2)(iii)(C)].

HRA Policy

Any of the following will be considered evidence of family program abuse:

Offering bribes or illegal gratuities to the HRA Board of Commissioners, employees, contractors, or other HRA representatives

Offering payments or other incentives to a third party as an inducement for the third party to make false or misleading statements to the HRA on the family's behalf

Use of a false name or the use of falsified, forged, or altered documents

Intentional misreporting of family information or circumstances (e.g., misreporting of income or family composition)

Omitted facts that were obviously known by a family member (e.g., not reporting employment income)

Admission of program abuse by an adult family member

The HRA may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

Penalties for Program Abuse

In the case of program abuse caused by a family the HRA may, at its discretion, impose any of the following remedies.

- The HRA may require the family to repay any amounts owed to the program (see 15-II.B., Family Reimbursement to HRA).
- The HRA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 13 (for residents).
- The HRA may deny admission or terminate the family's lease following the policies set forth in Chapter 3 and Chapter 13 respectively.
- The HRA may refer the family for state or federal criminal prosecution as described in section 15-II.D.

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15-II.C. HRA-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of HRA staff with respect to normal program administration are discussed throughout the ACOP. This section specifically addresses actions of An HRA staff member that are considered errors or program abuse related to the public housing program. Additional standards of conduct may be provided in the HRA personnel policy.

HRA-caused incorrect rental determinations include (1) failing to correctly apply public housing rules regarding family composition, income, assets, and expenses, and (2) errors in calculation.

De Minimis Errors [24 CFR 5.609(c)(4); Notice PIH 2023-27]

The HRA will not be considered out of compliance when making annual income determinations solely due to de minimis errors in calculating family income. A de minimis error is an error where the HRA determination of family income deviates from the correct income determination by no more than $30 per month in monthly adjusted income ($360 in annual adjusted income) per family.

HRAs must take corrective action to credit or repay a family if the family was overcharged rent, including when HRAs make de minimis errors in the income determination. Families will not be required to repay the HRA in instances where the HRA miscalculated income resulting in a family being undercharged for rent. HRAs state in their policies how they will repay or credit a family the amount they were overcharged as a result of the HRA's de minimis error in income determination.

HRA Policy

The HRA will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff-caused error, staff program abuse, or a de minimis error.

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Prohibited Activities

HRA Policy

Any of the following will be considered evidence of program abuse by HRA staff:

Failing to comply with any public housing program requirements for personal gain

Failing to comply with any public housing program requirements as a result of a conflict of interest relationship with any applicant or resident

Seeking or accepting anything of material value from applicants, residents, vendors, contractors, or other persons who provide services or materials to the HRA

Disclosing confidential or proprietary information to outside parties

Gaining profit as a result of insider knowledge of HRA activities, policies, or practices

Misappropriating or misusing public housing funds

Destroying, concealing, removing, or inappropriately using any records related to the public housing program

Committing any other corrupt or criminal act in connection with any federal housing program

Committing sexual harassment or other harassment based on race, color, religion, national origin, familial status, disability, sexual orientation, or gender identity, either quid pro quo (supervisory harassment) or hostile environment

Allowing sexual harassment or other harassment based on race, color, religion, national origin, familial status, disability, sexual orientation, or gender identity, either quid pro quo (supervisory harassment) or hostile environment, where the HRA knew or should have known such harassment was occurring

Retaliating against any applicant, resident, or staff reporting sexual harassment or other harassment based on race, color, religion, national origin, familial status, disability, sexual orientation, or gender identity, either quid pro quo (supervisory harassment) or hostile environment

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15-II.D. CRIMINAL PROSECUTION

HRA Policy

When the HRA determines that program abuse by a family or HRA staff member has occurred and the amount of underpaid rent meets or exceeds the threshold for prosecution under local or state law, the HRA will refer the matter to the appropriate entity for prosecution. When the amount of underpaid rent meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the public housing program will be referred to the appropriate local, state, or federal entity.

15-II.E. FRAUD AND PROGRAM ABUSE RECOVERIES

HRAs who enter into a repayment agreement with a family to collect rent owed, initiate litigation against the family to recover rent owed, or begin eviction proceedings against a family may retain 100 percent of program funds that the HRA recovers [Notice PIH 2007-27 (HA)].

If the HRA does none of the above, all amounts that constitute an underpayment of rent must be returned to HUD.

The family must be afforded the opportunity for a hearing through the HRA's grievance process.

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Chapter 16

PROGRAM ADMINISTRATION

INTRODUCTION

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

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

Part II: Establishing Flat Rents. This part describes the requirements and policies related to establishing and updating flat rent amounts.

Part III: Repayment of Family Debts. This part contains policies for recovery of monies that have been underpaid by families and describes the circumstances under which the HRA will offer repayment agreements to families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part IV: Public Housing Assessment System (HRAS). This part describes the HRAS indicators, how HRAs are scored under HRAS, and how those scores affect An HRA.

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

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

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

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PART I: SETTING UTILITY ALLOWANCES

24 CFR 965 Subpart E

16-I.A. OVERVIEW

HRAs must establish allowances for HRA-furnished utilities for all check metered utilities and for resident-purchased utilities for all utilities purchased directly by residents from a utility supplier [24 CFR 965.502(a)].

HRAs must also establish surcharges for excess consumption of HRA-furnished utilities [24 CFR 965.506].

The HRA must maintain a record that documents the basis on which utility allowances and scheduled surcharges are established and revised, and the record must be made available for inspection by residents [24 CFR 965.502(b)].

16-I.B. UTILITY ALLOWANCES

The HRA must establish separate allowances for each utility and for each category of dwelling units the HRA determines to be reasonably comparable as to factors affecting utility usage [24 CFR 965.503].

The objective of An HRA in establishing utility allowances for each dwelling unit category and unit size is to approximate a reasonable consumption of utilities by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment [24 CFR 965.505].

Utilities include gas, electricity, fuel for heating, water, sewerage, and solid waste disposal for a dwelling unit. In addition, if the HRA does not furnish a range and refrigerator, the family must be granted a utility allowance for the range and refrigerator they provide [24 CFR 965.505].

Costs for telephone, cable/satellite TV, and internet services are not considered utilities [PH Occ GB, p. 138].

Utility allowance amounts will vary by the rates in effect, size and type of unit, climatic location and sitting of the unit, type of construction, energy efficiency of the dwelling unit, and other factors related to the physical condition of the unit. Utility allowance amounts will also vary by residential demographic characteristics affecting home energy usage [PH Occ GB, p. 138].

Chapter 14 of the *PH Occupancy Guidebook* provides detailed guidance to the HRA about establishing utility allowances.

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Air-Conditioning

"If An HRA installs air conditioning, it shall provide, to the maximum extent economically feasible, systems that give residents the option of choosing to use air conditioning in their units. The design of systems that offer each resident the option to choose air conditioning shall include retail meters or check meters, and residents shall pay for the energy used in its operation. For systems that offer residents the option to choose air conditioning but cannot be check metered, residents are to be surcharged in accordance with 965.506. If an air conditioning system does not provide for resident option, residents are not to be charged, and these systems should be avoided whenever possible." [24 CFR 965.505(e)]

HRA Policy

The HRA has installed air-conditioning.

Each apartment unit at the John Carroll and Nan McKay High-rises has a wall mounted air-conditioning unit installed that is available for tenant use and is not metered. The residents of the high-rise buildings are required to pay a $10.00 monthly surcharge for this HRA-furnished equipment, which is a reasonable charge based on the usage of such equipment.

Utility Allowance Revisions [24 CFR 965.507]

The HRA must review at least annually the basis on which utility allowances have been established and must revise the allowances if necessary in order to adhere to the standards for establishing utility allowances that are contained in 24 CFR 965.505. The review must include all changes in circumstances (including completion of modernization and/or other energy conservation measures implemented by the HRA) indicating probability of a significant change in reasonable requirements and changes in utility rates [24 CFR 965.507(a)].

The HRA must revise its allowances for resident-purchased utilities if there is a rate change, and is required to do so if such change, by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rate on which the allowance was based.

Adjustments to resident payments as a result of such changes must be retroactive to the first day of the month following the month in which the last rate change taken into account became effective. Such rate changes are not subject to the 60-day notice [24 CFR 965.507(b)].

HRA Policy

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

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

For dwelling units subject to allowances for HRA-furnished utilities where check meters have been installed, the HRA must establish surcharges for utility consumption in excess of the allowances. Surcharges may be computed on a straight per unit of purchase basis or for stated blocks of excess consumption, and must be based on the HRA's average utility rate. The basis for calculating the surcharges must be described in the HRA's schedule of allowances. Changes in the amount of surcharges based directly on changes in the HRA's average utility rate are not subject to the advance notice requirements discussed under 16-I.D.

For dwelling units served by HRA-furnished utilities where check meters have not been installed, the HRA must establish schedules of surcharges indicating additional dollar amounts residents will be required to pay by reason of estimated utility consumption attributable to resident-owned major appliances or to optional functions of HRA-furnished equipment. The surcharge schedule must state the resident-owned equipment (or functions of HRA-furnished equipment) for which surcharges will be made and the amounts of such charges. Surcharges must be based on the cost to the HRA of the utility consumption estimated to be attributable to reasonable usage of such equipment.

HRA Policy

The HRA does have HRA-furnished utilities.

16-I.D. NOTICE REQUIREMENTS [965.502]

The HRA must give notice to all residents of proposed allowances and scheduled surcharges, and revisions thereof. The notice must be given in the manner provided in the lease and must:

- Be provided at least 60 days before the proposed effective date of the allowances, scheduled surcharges, or revisions.
- Describe the basis for determination of the allowances, scheduled surcharges, or revisions, including a statement of the specific items of equipment and function whose utility consumption requirements were included in determining the amounts of the allowances and schedule of surcharges.
- Notify residents of the place where the HRA's documentation on which allowances and surcharges are based is available for inspection.
- Provide all residents an opportunity to submit written comments during a period expiring not less than 30 days before the proposed effective date of the allowances, scheduled surcharges, or revisions.

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

On request from a family, HRAs must approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family with a disability [24 CFR 8 and 100, PH Occ GB, p. 172].

Likewise, residents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability [24 CFR 8 and 100, PH Occ GB, p. 172].

See Chapter 2 for policies regarding the request and approval of reasonable accommodations.

Further, the HRA may grant requests for relief from charges in excess of the utility allowance on reasonable grounds, such as special needs of the elderly, ill, or residents with disabilities, or special factors not within control of the resident, as the HRA deems appropriate. The family must request the higher allowance and provide the HRA with information about the additional allowance required.

HRAs should develop criteria for granting individual relief and to notify residents about the availability of individual relief, and also to notify participants about the availability of individual relief programs (sometimes referred to as “Medical Baseline discounts”) offered by the local utility company [Utility Allowance GB, p. 19, 24 CFR 965.508].

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PART II: ESTABLISHING FLAT RENTS

16-II.A. OVERVIEW

Flat rents are designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient.

Flat rents are also used to prorate assistance for a mixed family. A mixed family is one whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigrations status [24 CFR 5.504].

This part discusses how the HRA establishes and updates flat rents. Policies related to the use of flat rents, family choice of rent, flat rent hardships, and proration of rent for a mixed family are discussed in Chapter 6.

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

Establishing Flat Rents

The 2015 Appropriations Act requires that flat rents must be set at no less than 80 percent of the applicable fair market rent (FMR). Alternatively, the HRA may set flat rents at no less than 80 percent of the applicable small area FMR(SAFMR) for metropolitan areas, or 80 percent of the applicable unadjusted rents for nonmetropolitan areas.

For areas where HUD has not determined a SAFMR or an unadjusted rent, HRAs must set flat rents at no less than 80 percent of the FMR or apply for an exception flat rent.

The 2015 Appropriations Act permits HRAs to apply for an exception flat rent that is lower than either 80 percent of the FMR or SAFMR/unadjusted rent if the HRA can demonstrate, through the submission of a market analysis, that these FMRs do not reflect the market value of a particular property or unit and HUD agrees with the HRA's analysis. The market analysis must be submitted using form HUD-5880, "Flat Rent Market Analysis Summary."

HRAs must receive written HUD approval before implementing exception flat rents. HRAs with a previously approved flat rent exception request may submit a written request to extend the approved flat rents for up to two additional years, provided local market conditions remain unchanged. Detailed information on how to request exception flat rents can be found in Notice PIH 2022-33.

HRAs are now required to apply a utility allowance to flat rents as necessary. Flat rents set at 80 percent of the FMR must be reduced by the amount of the unit's utility allowance, if any.

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Review of Flat Rents

No later than 90 days after the effective date of the new annual FMRs/SAFMRs/unadjusted rent, HRAs must implement new flat rents as necessary based changes to the FMR/SAFMR/unadjusted rent or request an exception.

If the FMR falls from year to year, the HRA may, but is not required to, lower the flat rent to 80 percent of the current FMR/SAFMR/unadjusted rent.

HRA Policy

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

Applying Flat Rents

HRA Policy

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

Posting of Flat Rents

HRA Policy

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

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

The HRA must maintain records that document the method used to determine flat rents, and that show how flat rents were determined by the HRA in accordance with this method.

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PART III: FAMILY DEBTS TO THE HRA

16-III.A. OVERVIEW

Families are required to reimburse the HRA if they were charged less rent than required because the family either underreported or failed to report income. HRAs are required to determine retroactive rent amounts as far back as the HRA has documentation of family unreported income [Notice PIH 2018-18].

This part describes the HRA's policies for recovery of monies owed to the HRA by families.

HRA Policy

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

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

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16-III.B. REPAYMENT POLICY

Family Debts to the HRA

HRA Policy

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

Refusal to Enter into An Agreement

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the HRA will terminate the family's tenancy.

HRA Policy

When a family refuses to repay monies owed to the HRA, in addition to termination of program assistance, the HRA will utilize other available collection alternatives including, but not limited to, the following:

Collection agencies

Small claims court

Civil lawsuit

State income tax set-off program

Repayment Agreement [24 CFR 792.103]

The term *repayment agreement* refers to a formal written document signed by a tenant or owner and provided to the HRA in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

General Repayment Agreement Guidelines

Down Payment Requirement

HRA Policy

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

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Payment Thresholds

Notice PIH 2018-18 recommends that the total amount that a family must pay each month—the family's monthly share of rent plus the monthly debt repayment amount—should not exceed 40 percent of the family's monthly adjusted income, which is considered "affordable." Moreover, Notice PIH 2018-18 acknowledges that HRAs have the discretion to establish "thresholds and policies" for repayment agreements with families [24 CFR 982.552(c)(1)(vii)].

HRA Policy

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

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

$25

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

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

Execution of the Agreement

All repayment agreements must be in writing, dated, and signed by both the family and the HRA [Notice PIH 2018-18].

HRA Policy

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

Due Dates

HRA Policy

All payments are due by the close of business on the 10th day of the month. If the 10th does not fall on a business day, the due date is the close of business on the first business day after the 10th.

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Late or Missed Payments

HRA Policy

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

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

No Offer of Repayment Agreement

HRA Policy

The HRA generally will not enter into a repayment agreement with a family under any of the following conditions:

The family is already under an existing repayment agreement with the HRA.

The HRA determines that the family's debt is a result of program abuse or fraud (as defined in Chapter 15 of the ACOP).

The amount owed by the family exceeds the federal or state threshold for criminal prosecution.

Repayment Agreement Terms

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

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

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PART IV: PUBLIC HOUSING ASSESSMENT SYSTEM (HRAS)

16-IV.A. OVERVIEW

The purpose of the Public Housing Assessment System (HRAS) is to improve the delivery of services in public housing and enhance trust in the public housing system among HRAs, public housing residents, HUD and the general public by providing a management tool for effectively and fairly measuring the performance of a public housing agency in essential housing operations.

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

The table below lists each of the HRAS indicators, the points possible under each indicator, and a brief description of each indicator. AN HRA's performance is based on a combination of all four indicators.

Indicator 1: Physical condition of the HRA's projects **Maximum Score: 40** • The objective of this indicator is to determine the level to which An HRA is maintaining its public housing in accordance with the standard of safe, habitable dwelling units. • To determine the physical condition of An HRA's projects, inspections are performed using the National Standards for the Inspection of Real Estate (NSPIRE). The inspections are performed by an independent inspector arranged by HUD and include a statistically valid sample of the units in each project in the HRA's public housing portfolio.
Indicator 2: Financial condition of the HRA's projects **Maximum Score: 25** • The objective of this indicator is to measure the financial condition of the HRA's public housing projects for the purpose of evaluating whether the HRA has sufficient financial resources and is capable of managing those financial resources effectively to support the provision of housing that is decent, safe, sanitary, and in good repair. • AN HRA's financial condition is determined by measuring each public housing project's performance in each of the following subindicators: quick ratio, months expendable net assets ratio, and debt service coverage ratio.

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Indicator 3: Management operations of the HRA's projects
Maximum Score: 25

- The objective of this indicator is to measure certain key management operations and responsibilities of An HRA's projects for the purpose of assessing the HRA's management operations capabilities.
- Each project's management operations are assessed based on the following sub-indicators: occupancy, tenant accounts receivable, and accounts payable.
- An on-site management review may be conducted as a diagnostic and feedback tool for problem performance areas, and for compliance. Management reviews are not scored.

Indicator 4: Capital Fund
Maximum Score: 10

- The objective of this indicator is to measure how long it takes the HRA to obligate capital funds and to occupy units.
- The HRA's score for this indicator is measured at the HRA level and is based on the following subindicators: timeliness of fund obligation and occupancy rate.

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

HUD's Real Estate Assessment Center (REAC) issues overall HRAS scores, which are based on the scores of the four HRAS indicators, and the subindicators under each indicator. The HRA's indicator scores are based on a weighted average of the HRA's public housing projects' scores. HRAS scores translate into a designation for each HRA as high performing, standard, substandard, or troubled.

A high performer is An HRA that achieves an overall HRAS score of 90 or greater, and achieves a score of at least 60 percent of the points available under the physical, financial, and management indicators and at least 50 percent of the points available under the capital fund indicator.

A standard performer is An HRA that has an overall HRAS score between 60 and 89, and achieves a score of at least 60 percent of the points available under the physical, financial, and management indicators and at least 50 percent of the points available under the capital fund indicator.

A substandard performer is An HRA that has an overall HRAS score of at least 60 percent and achieves a score of less than 60 percent under one or more of the physical, financial, or management indicators.

A troubled performer is An HRA that achieves an overall HRAS score of less than 60, or achieves less than 50 percent of the total points available under the capital fund indicator.

These designations can affect An HRA in several ways:

- High-performing HRAs are eligible for incentives including relief from specific HUD requirements and bonus points in funding competitions [24 CFR 902.71].
- HRAs that are standard performers may be required to submit and operate under a corrective action plan to eliminate deficiencies in the HRA's performance [24 CFR 902.73(a)(1)].
- HRAs that are substandard performers will be required to submit and operate under a corrective action plan to eliminate deficiencies in the HRA's performance [24 CFR 902.73(a)(2)].
- HRAs with an overall rating of "troubled" are subject to additional HUD oversight, and are required to enter into a memorandum of agreement (MOA) with HUD to improve HRA performance [24 CFR 902.75].
- HRAs that fail to execute or meet MOA requirements may be referred to the Assistant Secretary to determine remedial actions, including, but not limited to, remedies available for substantial default [24 CFR 902.75(g) and 24 CFR Part 907].

HRAs must post a notice of its final HRAS score and status in appropriate conspicuous and accessible locations in its offices within two weeks of receipt of its final score and designation [24 CFR 902.64(b)(2)].

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PART V: RECORD KEEPING

16-V.A. OVERVIEW

The HRA must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, the HRA must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights, and that comply with VAWA confidentiality requirements.

16-V.B. RECORD RETENTION

The HRA must keep the last three years of the Form HUD-50058 and supporting documentation during the term of each assisted lease, and for a period of at least three years from the end of participation (EOP) date [24 CFR 908.101].

The HRA must maintain Enterprise Income Verification (EIV) system Income Reports in the tenant file for the duration of the tenancy but for a period not to exceed three years from the EOP date [Notice PIH 2018-18].

Notice PIH 2014-20 requires the HRA to keep records of all complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule.

The HRA must keep confidential records of all emergency transfer requested under the HRA's Emergency Transfer Plan, and the outcomes of such requests, and retain the records for a period of three years, or for a period of time as specific in program regulations [24 CFR 5.2002(e)(12)].

HRA Policy

The HRA will keep the last three years of the Form HUD-50058 and supporting documentation, and for at least three years after end of participation all documents related to a family's eligibility, tenancy, and termination.

The HRA will keep Enterprise Income Verification (EIV) system Income Reports in the tenant file for the duration of the tenancy and for three years from the end of participation date.

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

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

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

Documentation supporting the establishment of flat rents

Documentation supporting the establishment of utility allowances and surcharges

Documentation related to HRAS

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

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

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

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

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

16-V.C. RECORDS MANAGEMENT

HRAs must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

HRA Policy

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

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

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

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the HRA may release the information collected.

Upfront Income Verification (UIV) Records

HRAs that access UIV data through HUD's Enterprise Income Verification (EIV) system are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD-issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification (UIV) Data*.

HRA Policy

Prior to utilizing HUD's EIV system, the HRA will adopt and implement EIV security procedures required by HUD.

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Criminal Records

The HRA may only disclose the criminal conviction records which the HRA receives from a law enforcement agency to officers or employees of the HRA, or to authorized representatives of the HRA who have a job-related need to have access to the information [24 CFR 5.903(e)].

The HRA must establish and implement a system of records management that ensures that any criminal record received by the HRA from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the HRA action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

The HRA must establish and implement a system of records management that ensures that any sex offender registration information received by the HRA from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the HRA action without institution of a challenge or final disposition of any such litigation. However, a record of the screening, including the type of screening and the date performed must be retained [Notice PIH 2012-28]. This requirement does not apply to information that is public information, or is obtained by An HRA other than under 24 CFR 5.905.

Medical/Disability Records

HRAs are not permitted to inquire about the nature or extent of a person's disability. The HRA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the HRA receives a verification document that provides such information, the HRA should not place this information in the tenant file. The HRA should destroy the document.

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

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

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PART VI: REPORTING REQUIREMENTS FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL

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

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

The HRA must report the name and address of a child identified as having an elevated blood lead level (EBLL) to the public health department within five business days of being so notified by any other medical health care professional. The HRA must also report each known case of a child with an EBLL to the HUD field office.

HRA Policy

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

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

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

16-VII.A. OVERVIEW

The Violence against Women Act (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking who are applying for or receiving assistance under the public housing program. If your state or local laws provide greater protection for such victims, those apply in conjunction with VAWA.

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

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and HRA policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and HRA policies are located in Chapter 3, "Eligibility" (sections 3-I.C and 3-III.F); Chapter 5, "Occupancy Standards and Unit Offers" (section 5-II.D); Chapter 8, "Leasing and Inspections" (section 8-I.B); Chapter 12, "Transfer Policy" (sections 12-III.C, 12-III.F, and 12-IV.D); and Chapter 13, "Lease Terminations" (sections 13-III.F and 13-IV.D).

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

As used in VAWA:

- The term *affiliated individual* means, with respect to a person:
  - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that person stands in the position or place of a parent; or
  - Any individual, tenant or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.
- The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - The length of the relationship
  - The type of relationship
  - The frequency of interaction between the persons involved in the relationship

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- The term *domestic violence* includes felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding, and in the case of victim services, includes the user or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is:
  - The current or former spouse or intimate partner of the victim, or person similarly situated to a spouse or intimate partner of the victim
  - A person who is cohabitating or has cohabitated with the victim as a spouse or intimate partner
  - A person with whom the victim shares a child in common
  - A person who commits acts against an youth or adult victim who is protected from those acts under the domestic or family violence laws of the jurisdiction
- The term *economic abuse* means behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, and manipulation to:
  - Restrict a person's access to money, assets, credit, or financial information
  - Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage
  - Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or to whom one has a fiduciary duty
- The term *sexual assault* means:
  - Any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks the capacity to consent
- The term *stalking* means:
  - To engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.

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- The term *technological abuse* means an act or pattern of behavior that occurs within domestic violence, dating violence, sexual assault, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor another person, except as otherwise permitted by law, that occurs using any form of technology, including but not limited to:
  - Internet enabled devices
  - Online spaces and platforms
  - Computers
  - Mobile devices
  - Cameras and imaging programs
  - Apps
  - Location tracking devices
  - Communication technologies
  - Any other emergency technologies

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

Notification to Public

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

HRA Policy

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

A notice of occupancy rights under VAWA to public housing program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (Form HUD-5380, see Exhibit 16-1)

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

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

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

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

Contact information for local victim advocacy groups or service providers

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

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

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

HRA Policy

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

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

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

The HRA is not limited to providing VAWA information at the times specified in the above policy. If the HRA decides to provide VAWA information to a tenant following an incident of domestic violence, Notice PIH 2017-08 cautions against sending the information by mail, since the abuser may be monitoring the mail. The notice recommends that in such cases the HRA make alternative delivery arrangements that will not put the victim at risk.

HRA Policy

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

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

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

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

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

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

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

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

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

The HRA may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under "Conflicting Documentation," nor may it require certification in addition to third-party documentation [FR Notice 11/16/16].

HRA Policy

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

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

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

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Conflicting Documentation [24 CFR 5.2007(e)]

In cases where the HRA receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, the HRA may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3). The HRA may also request third-party documentation when submitted documentation contains information that conflicts with existing information already available to the HRA. The HRA must honor any court orders issued to protect the victim or to address the distribution of property. Individuals have 30 calendar days to return third-party verification to the HRA. If the HRA does not receive third-party documentation, and the HRA will deny or terminate assistance as a result, the HRA must hold separate hearings for the tenants [Notice PIH 2017-08].

HRA Policy

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

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

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

The HRA has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence—i.e., without requiring formal documentation of abuse in accordance with 24 CFR 5.2007(b). HUD recommends documentation in a confidential manner when a verbal statement or other evidence is accepted.

HRA Policy

If the HRA accepts an individual's statement or other corroborating evidence (as determined by the victim) of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the HRA will document acceptance of the statement or evidence in the individual's file.

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

In order to deny relief for protection under VAWA, An HRA must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within 14 business days from the date of receipt, or such longer time as the HRA may allow, the HRA may deny relief for protection under VAWA.

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

All information provided to the HRA regarding domestic violence, dating violence, sexual assault, stalking, or human trafficking, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, must be retained in confidence. This means that the HRA (1) may not enter the information into any shared database, (2) may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work, and (3) may not provide the information to any other entity or individual, except to the extent that the disclosure is (a) requested or consented to by the individual in writing, (b) required for use in an eviction proceeding, or (c) otherwise required by applicable law.

HRA Policy

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

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EXHIBIT 16-1: NOTICE OF OCCUPANCY RIGHTS UNDER THE VIOLENCE AGAINST WOMEN ACT, FORM HUD-5380

City of South St. Paul Housing and Redevelopment Authority

Notice of Occupancy Rights under the Violence Against Women Act[1]

To all Tenants and Applicants

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women, but are available equally to all individuals regardless of sex, gender identity, or sexual orientation.[2] The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees that public housing is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA."

Protections for Applicants

If you otherwise qualify for assistance under public housing, you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Protections for Tenants

If you are receiving assistance under public housing, you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under public housing solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

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[1] Despite the name of this law, VAWA protection is available regardless of sex, gender identity, or sexual orientation.

[2] Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

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Removing the Abuser or Perpetrator from the Household

The HRA may divide (bifurcate) your lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or stalking.

If the HRA chooses to remove the abuser or perpetrator, the HRA may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, the HRA must allow the tenant who is or has been a victim and other household members to remain in the unit for 30 days, in order to establish eligibility under the program or under another HUD housing program covered by VAWA, or, find alternative housing.

In removing the abuser or perpetrator from the household, the HRA must follow Federal, State, and local eviction procedures. In order to divide a lease, the HRA may, but is not required to, ask you for documentation or certification of the incidences of domestic violence, dating violence, sexual assault, or stalking.

Moving to Another Unit

Upon your request, the HRA may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, the HRA may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking. If the request is a request for emergency transfer, the HRA may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

1. **You are a victim of domestic violence, dating violence, sexual assault, or stalking.** If your HRA does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation, as described in the documentation section below.
2. **You expressly request the emergency transfer.** Your HRA may choose to require that you submit a form, or may accept another written or oral request.
3. **You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

   OR

   You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer. If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you expressly request the transfer.

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The HRA will keep confidential requests for emergency transfers by victims of domestic violence, dating violence, sexual assault, or stalking, and the location of any move by such victims and their families.

The HRA's emergency transfer plan provides further information on emergency transfers, and the HRA must make a copy of its emergency transfer plan available to you if you ask to see it.

Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking

The HRA can, but is not required to, ask you to provide documentation to "certify" that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such request from the HRA must be in writing, and the HRA must give you at least 14 business days (Saturdays, Sundays, and federal holidays do not count) from the day you receive the request to provide the documentation. The HRA may, but does not have to, extend the deadline for the submission of documentation upon your request.

You can provide one of the following to the HRA as documentation. It is your choice which of the following to submit if HP asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

- A complete HUD-approved certification form given to you by the HRA with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for your name, the date, time, and location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides for including the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and is safe to provide.
- A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.
- A statement, which you must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, "professional") from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that they believe that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.
- Any other statement or evidence that the HRA has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, the HRA does not have to provide you with the protections contained in this notice.

If the HRA receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), the HRA has the right to request that you provide third-party documentation within thirty 30 calendar days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, the HRA does not have to provide you with the protections contained in this notice.

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Confidentiality

The HRA must keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA.

The HRA must not allow any individual administering assistance or other services on behalf of the HRA (for example, employees and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable federal, state, or local law.

The HRA must not enter your information into any shared database or disclose your information to any other entity or individual. The HRA, however, may disclose the information provided if:

- You give written permission to the HRA to release the information on a time limited basis.
- The HRA needs to use the information in an eviction or termination proceeding, such as to evict your abuser or perpetrator or terminate your abuser or perpetrator from assistance under this program.
- A law requires the HRA to release the information.

VAWA does not limit the HRA's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted or Assistance May Be Terminated

You can be evicted and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against you. However, the HRA cannot hold tenants who have been victims of domestic violence, dating violence, sexual assault, or stalking to a more demanding set of rules than it applies to tenants who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

The protections described in this notice might not apply, and you could be evicted and your assistance terminated, if the HRA can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

1. Would occur within an immediate time frame, and
2. Could result in death or serious bodily harm to other tenants or those who work on the property.

If the HRA can demonstrate the above, the HRA should only terminate your assistance or evict you if there are no other actions that could be taken to reduce or eliminate the threat.

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Other Laws

VAWA does not replace any Federal, State, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

Non-Compliance with The Requirements of This Notice

You may report your HRA for violations of these rights and seek additional assistance, if needed, by contacting or filing a complaint with the City Administrator and Director of the HRA, **Ryan Garcia, at (651)554-3278** or the HRA's local HUD field office representative, **Ryan Raleigh, at (612)370-3020.**

For Additional Information

You may view a copy of HUD's final VAWA rule at: https://www.gpo.gov/fdsys/pkg/FR-2016-11-16/pdf/2016-25888.pdf.

Additionally, the HRA must make a copy of HUD's VAWA regulations available to you if you ask to see them.

For questions regarding VAWA, please contact South St. Paul's Housing Programs Administrator, **Tiffany Greene, by phone at (651)554-3280, by email at tgreene@southstpaul.org, or in the office of the SSP HRA located at 125 Third Ave North, South St. Paul, MN 55075**.

For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY). You may also contact **360 Communities Domestic Abuse Services & Shelters in Eagan at (651)452-7288 or in Hastings at (651)437-1291**.

For tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at https://www.victimsofcrime.org/our-programs/stalking-resource-center.

For help regarding sexual assault, you may contact **Sexual Assault Services through Dakota County at (651)405-1500.**

Victims of stalking seeking help may contact **Crime Victim Hotline at 1-866-385-2699.**

Attachment: Certification form HUD-5382

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EXHIBIT 16-2: CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING AND ALTERNATE DOCUMENTATION, FORM HUD-5382

CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, AND ALTERNATE DOCUMENTATION

U.S. Department of Housing and Urban Development

OMB Approval No. 2577-0286
Exp. 06/30/2017

Purpose of Form: The Violence Against Women Act ("VAWA") protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

Use of This Optional Form: If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

(1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, "professional") from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of "domestic violence," "dating violence," "sexual assault," or "stalking" in HUD's regulations at 24 CFR 5.2003.

(2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or

(3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

Submission of Documentation: The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation, if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

Confidentiality: All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

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TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

1. **Date the written request is received by victim: _____**

2. **Name of victim: _____**

3. **Your name (if different from victim's):_____**

4. **Name(s) of other family member(s) listed on the lease:_____**

_____

5. **Residence of victim: _____**

6. **Name of the accused perpetrator (if known and can be safely disclosed):_____**

_____

7. **Relationship of the accused perpetrator to the victim:_____**

8. **Date(s) and times(s) of incident(s) (if known):_____**

_____

10. **Location of incident(s):_____**

In your own words, briefly describe the incident(s):

_____

_____

_____

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature _____Signed on (Date) _____

Public Reporting Burden: The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

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EXHIBIT 16-3: EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

Attachment: Certification form HUD-5382

City of South St. Paul Housing and Redevelopment Authority

Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

Public Housing Program

Emergency Transfers

The HRA is concerned about the safety of its tenants, and such concern extends to tenants who are victims of domestic violence, dating violence, sexual assault, or stalking. In accordance with the Violence Against Women Act (VAWA),[3] the HRA allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit. The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation. [4] The ability of the HRA to honor such request for tenants currently receiving assistance, however, may depend upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether the HRA has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

This plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance to tenants on safety and security. This plan is based on a model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD), the federal agency that oversees that the public housing and housing choice voucher (HCV) programs are in compliance with VAWA.

Eligibility for Emergency Transfers

A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD's regulations at 24 CFR part 5, subpart L, is eligible for an emergency transfer, if the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit. If the tenant is a victim of sexual assault, the tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar- day period preceding a request for an emergency transfer.

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[3]Despite the name of this law, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

[4]Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

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A tenant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan.

Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

Emergency Transfer Request Documentation

To request an emergency transfer, the tenant shall notify the HRA's management office and submit a written request for a transfer to **any HRA office**. The HRA will provide reasonable accommodations to this policy for individuals with disabilities. The tenant's written request for an emergency transfer should include either:

1. A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under the HRA's program; OR
2. A statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency transfer.

Confidentiality

The HRA will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives the HRA written permission to release the information on a time-limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person or persons that committed an act of domestic violence, dating violence, sexual assault, or stalking against the tenant. See the Notice of Occupancy Rights under the Violence against Women Act for All Tenants for more information about the HRA's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

Emergency Transfer Timing and Availability

The HRA cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. The HRA will, however, act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. The HRA may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

If the HRA has no safe and available units for which a tenant who needs an emergency transfer is eligible, the HRA will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, the HRA will also assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

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Emergency Transfers: Public Housing (PH) Program

If you are a public housing resident and request an emergency transfer as described in this plan, the HRA will attempt to assist you in moving to a safe unit quickly. The HRA will make exceptions as required to policies restricting moves.

Emergency transfers for which you are not required to apply for assistance include the following:

- Public housing unit in a different development
- Public housing unit in the same development, if you determine that the unit is safe

At your request, the HRA will refer you to organizations that may be able to further assist you.

You may also request an emergency transfer to the following programs for which you are required to apply for assistance:

- HCV tenant-based program
- HCV project-based assistance
- Other programs administered by the HRA (such as state housing programs)

Emergency transfers will not take priority over waiting list admissions for these types of assistance. At your request, the HRA will refer you to organizations that may be able to further assist you.

Safety and Security of Tenants

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe.

Tenants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

Tenants who have been victims of sexual assault may call the Rape, Abuse, and Incest National Network's National Sexual Assault Hotline at 1-800-656-HOPE, or visit the online hotline at https://ohl.rainn.org/online/.

Tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at https://www.victimsofcrime.org/our-programs/stalking-resource-center.

Attachment: Local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking.

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EXHIBIT 16-4: EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, FORM HUD-5383

EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

U.S. Department of Housing and Urban Development

OMB Approval No. 2577-0286
Exp. 06/30/2017

Purpose of Form: If you are a victim of domestic violence, dating violence, sexual assault, or stalking, and you are seeking an emergency transfer, you may use this form to request an emergency transfer and certify that you meet the requirements of eligibility for an emergency transfer under the Violence Against Women Act (VAWA). Although the statutory name references women, VAWA rights and protections apply to all victims of domestic violence, dating violence, sexual assault or stalking. Using this form does not necessarily mean that you will receive an emergency transfer. See your housing provider's emergency transfer plan for more information about the availability of emergency transfers.

The requirements you must meet are:

(1) You are a victim of domestic violence, dating violence, sexual assault, or stalking. If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation. In response, you may submit Form HUD-5382, or any one of the other types of documentation listed on that Form.

(2) You expressly request the emergency transfer. Submission of this form confirms that you have expressly requested a transfer. Your housing provider may choose to require that you submit this form, or may accept another written or oral request. Please see your housing provider's emergency transfer plan for more details.

(3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit. This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

OR

You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer. If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you submit this form or otherwise expressly request the transfer.

Submission of Documentation: If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you should submit that documentation to your housing provider if it is safe for you to do so. Examples of third party documentation include, but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom you have sought assistance; a current restraining order; a recent court order or other court records; a law enforcement report or records; communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts.

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Confidentiality: All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking, and concerning your request for an emergency transfer shall be kept confidential. Such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections or an emergency transfer to you. Such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

TO BE COMPLETED BY OR ON BEHALF OF THE PERSON REQUESTING A TRANSFER

1. Name of victim requesting an emergency transfer: _____

2. Your name (if different from victim's)_____

3. Name(s) of other family member(s) listed on the lease:_____

_____

4. Name(s) of other family member(s) who would transfer with the victim:_____

_____

5. Address of location from which the victim seeks to transfer: _____

6. Address or phone number for contacting the victim:_____

7. Name of the accused perpetrator (if known and can be safely disclosed):_____

8. Relationship of the accused perpetrator to the victim:_____

9. Date(s), Time(s) and location(s) of incident(s):_____

_____

10. Is the person requesting the transfer a victim of a sexual assault that occurred in the past 90 days on the premises of the property from which the victim is seeking a transfer? If yes, skip question 11. If no, fill out question 11. _____

11. Describe why the victim believes they are threatened with imminent harm from further violence if they remain in their current unit.

_____

_____

12. If voluntarily provided, list any third-party documentation you are providing along with this notice: _____

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This is to certify that the information provided on this form is true and correct to the best of my knowledge, and that the individual named above in Item 1 meets the requirement laid out on this form for an emergency transfer. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature _____Signed on (Date) _____

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GLOSSARY

A. ACRONYMS USED IN PUBLIC HOUSING

ACC	Annual contributions contract
ACOP	Admissions and continued occupancy policy
ADA	Americans with Disabilities Act of 1990
AIDS	Acquired immune deficiency syndrome
AMI	Area median income
AMP	Asset management project
BR	Bedroom
CDBG	Community Development Block Grant (Program)
CFP	Capital fund program
CFR	Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as "the regulations")
COCC	Central office cost center
CPI	Consumer price index (published monthly by the Department of Labor as an inflation indicator)
EIV	Enterprise Income Verification
FDIC	Federal Deposit Insurance Corporation
FHA	Federal Housing Administration (HUD Office of Housing)
FHEO	Fair Housing and Equal Opportunity (HUD Office of)
FICA	Federal Insurance Contributions Act (established Social Security taxes)
FMR	Fair market rent
FR	Federal Register
FSS	Family Self-Sufficiency (Program)
FY	Fiscal year
FYE	Fiscal year end
GAO	Government Accountability Office

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HA	Housing authority or housing agency
HCV	Housing choice voucher
HIP	Housing Information Portal
HOPE VI	Revitalization of Severely Distressed Public Housing Program
HOTMA	Housing Opportunity through Modernization Act of 2016
HUD	Department of Housing and Urban Development
HUDCLIPS	HUD Client Information and Policy System
IPA	Independent public accountant
IRA	Individual retirement account
IRS	Internal Revenue Service
IVT	Income Validation Tool
JTPA	Job Training Partnership Act
LBP	Lead-based paint
LEP	Limited English proficiency
LIHTC	Low-income housing tax credit
MTW	Moving to Work
NOFA	Notice of funding availability
NSPIRE	National Standards for the Physical Inspection of Real Estate
OGC	HUD's Office of General Counsel
OIG	HUD's Office of Inspector General
OMB	Office of Management and Budget
PASS	Plan to Achieve Self-Support
HRA	Public housing agency
HRAS	Public Housing Assessment System
PIH	(HUD Office of) Public and Indian Housing
QC	Quality control
QHWRA	Quality Housing and Work Responsibility Act of 1998 (also known as the Public Housing Reform Act)

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RAD	Rental Assistance Demonstration Program
REAC	(HUD) Real Estate Assessment Center
RFP	Request for proposals
RIGI	Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level)
ROSS	Resident Opportunity and Supportive Services
SSA	Social Security Administration
SSI	Supplemental security income
SWICA	State wage information collection agency
TANF	Temporary assistance for needy families
TR	Tenant rent
TTP	Total tenant payment
UA	Utility allowance
UFAS	Uniform Federal Accessibility Standards
UIV	Upfront income verification
URP	Utility reimbursement payment
VAWA	Violence Against Women Act
VCA	Voluntary Compliance Agreement

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B. GLOSSARY OF PUBLIC HOUSING TERMS

Accessible. The facility or portion of the facility can be approached, entered, and used by persons with disabilities.

Adjusted income. Annual income (as determined under 24 CFR 5.609), of the members of the family residing or intending to reside in the dwelling unit less allowable HUD deductions and allowances.

Affiliated individual. With respect to an individual, a spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in loco parentis (in the position or place of a parent), or any individual, tenant, or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.

Alternative non-public housing rent. A monthly rent equal to the greater of:

- The applicable fair market rent, as defined in 24 CFR part 888, subpart A, for the unit; or
- The amount of the monthly subsidy provided for the unit, which will be determined by adding the per unit assistance provided to a public housing property as calculated through the applicable formulas for the Public Housing Capital Fund and Public Housing Operating Fund.

Annual contributions contract (ACC). The written contract between HUD and an HRA under which HUD agrees to provide funding for a program under the 1937 Act, and the HRA agrees to comply with HUD requirements for the program.

Applicant (applicant family). A family that has applied for admission to a program but is not yet a participant in the program.

As-paid states. States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

Assets. (See *net family assets.*)

Auxiliary aids. Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving federal financial assistance.

Bifurcate. With respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.

Ceiling rent. The highest rent amount the HRA 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.

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Child care expenses. Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further their education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

Citizen. *A* citizen or national of the United States.

Cohead. An individual in the household who is equally responsible for the lease with the head of household. A family may have a cohead or spouse but not both. A cohead never qualifies as a dependent. The cohead must have legal capacity to enter into a lease.

Consent form. Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

Covered families. Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which federal, state, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

Dating violence. Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

Day laborer. An individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future.

Dependent. A member of the family (which excludes foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

Dependent child. In the context of the student eligibility restrictions, a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of *dependent* as specified above.

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Disability assistance expenses. Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member, and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

Disabled family. A family whose head, cohead, spouse, or sole member is a person with disabilities; two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

Disabled person. See *person with disabilities.*

Disallowance. Exclusion from annual income.

Displaced family. A family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to federal disaster relief laws.

Domestic violence. Felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding, and in the case of victim services, includes the user or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is:

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

Domicile. The legal residence of the household head or spouse as determined in accordance with state and local law.

Drug-related criminal activity. The illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute, or use the drug.

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Earned income. Income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare, Social Security, and governmental subsidies for certain benefits), or any cash or in-kind benefits.

Economic abuse. Behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitle, including using coercion, fraud, and manipulation to:

- Restrict a person's access to money, assets, credit, or financial information
- Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage
- Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or to whom one has a fiduciary duty

Economic self-sufficiency program. Any program designed to encourage, assist, train, or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see 24 CFR 5.603(c).

Effective date. The "effective date" of an examination or reexamination refers to: (i) in the case of an examination for admission, the date of initial occupancy and (ii) in the case of reexamination of an existing tenant, the date the redetermined rent becomes effective.

Elderly family. A family whose head, cohead, spouse, or sole member is a person who is at least 62 years of age; two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

Elderly person. An individual who is at least 62 years of age.

Eligible family (Family). A family that is income eligible and meets the other requirements of the 1937 Act and Part 5 of 24 CFR.

Employer identification number (EIN). The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

Evidence of citizenship or eligible status. The documents which must be submitted as evidence of citizenship or eligible immigration status. (See 24 CFR 5.508(b).)

Extremely low-income family. A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area as determined by HUD, whichever number is higher, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30 percent of median income if HUD finds such variations are necessary due to unusually high or low family incomes. (See 24 CFR 5.603.)

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Facility. All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock, or other real or personal property or interest in the property.

Fair Housing Act. Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

Fair market rent (FMR). The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe, and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the *Federal Register* in accordance with 24 CFR Part 888.

Family. Includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, and can be further defined in HRA policy.

- A single person, who may be:
  - An elderly person, displaced person, disabled person, near-elderly person, or any other single person;
  - An otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)), and is homeless or is at risk of becoming homeless at age 16 or older; or
- A group of persons residing together, and such group includes, but is not limited to:
  - A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);
  - An elderly family;
  - A near-elderly family;
  - A disabled family;
  - A displaced family; and
  - The remaining member of a tenant family.

Family self-sufficiency program (FSS program). The program established by an HRA within its jurisdiction to promote self-sufficiency among participating families, including the coordination of supportive services to these families (24 CFR 984.103).

Federal agency. A department of the executive branch of the federal government.

Flat rent. Rent that is based on the market rent charged for comparable units in the private unassisted rental market, set at no less than 80 percent of the current fair market rent (FMR), 80 percent of the small area fair market rent (SAFMR), or 80 percent of the unadjusted rent, with utility allowances applied as necessary. The unadjusted rent is the FMR estimated directly from source data that HUD uses to calculate FMRs in nonmetropolitan areas.

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Foster adult. A member of the household who is 18 years of age or older and meets the definition of a foster adult under State law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

Foster child. A member of the household who meets the definition of a foster child under State law. In general, a foster child is placed with the family by an authorized placement agency (e.g., public child welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction.

Foster child care payment. A payment to eligible households by state, local, or private agencies appointed by the state to administer payments for the care of foster children.

Full-time student. A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended). (See 24 CFR 5.603)

Gender identity. Actual or perceived gender-related characteristics.

Handicap. Any condition or characteristic that renders a person an individual with handicaps. (See *person with disabilities*.)

Head of household. The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

Health and medical care expenses. Health and medical care expenses are any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed.

Household. A household includes additional people other than the family who, with the HRA's permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

Housing agency (HA). See *public housing agency.*

HUD. The U.S. Department of Housing and Urban Development.

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Human trafficking. A crime involving the exploitation of a person for labor, services, or commercial sex. The Trafficking Victims Protection Act of 2000 and its subsequent reauthorizations recognize and define two primary forms of human trafficking:

- Sex trafficking is the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age. See 22 U.S.C. § 7102(11)(A).
- Forced labor is the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. See 22 U.S.C. § 7102(11)(B).

Imputed asset. An asset disposed of for less than fair market value during the two years preceding examination or reexamination.

Imputed asset income. When the value of net family assets exceeds $50,000 and the actual returns from a given asset cannot be calculated, imputed returns on the asset based on the current passbook savings rate, as determined by HUD.

Imputed welfare income. An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction but is included in the family's annual income and therefore reflected in the family's rental contribution.

Income-based rent. A tenant rent that is based on the family's income and the HRA's rent policies for determination of such rents.

Income information means information relating to an individual's income, including:

- All employment income information known to current or previous employers or other income sources
- All information about wages, as defined in the state's unemployment compensation law, including any social security number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, employer identification number of an employer reporting wages under a state unemployment compensation law
- Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received
- Unearned IRS income and self-employment wages and retirement income
- Wage, social security, and supplemental security income data obtained from the Social Security Administration.

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Income Validation Tool (IVT) Accessible through HUD's EIV system, provides validation of tenant reported wages, unemployment compensation, and Social Security benefits by comparing the income reported in IMS-PIC via form HUD-50058 to information received from the Department of Health and Human Services' (HHS) National Directory of New Hires (NDNH), and the Social Security Administration (SSA) data sharing agreements.

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

Individual with handicaps. See *person with disabilities.*

Jurisdiction. The area in which the HRA has authority under state and local law to administer the program.

Lease. A written agreement between the HRA and a tenant family for the leasing a public housing unit. The lease establishes the legal relationship between the HRA and the tenant family.

Live-in aide. A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.

Local preference. A preference used by the HRA to select among applicant families.

Low-income family. A family whose income does not exceed 80 percent of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80 percent for areas with unusually high or low incomes.

Minimum rent. An amount established by the HRA of zero to $50.

Minor. A member of the family household other than the family head or spouse, who is under 18 years of age.

Mixed family. *A* family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

Monthly adjusted income. One twelfth of adjusted income.

Monthly income. One twelfth of annual income.

National. *A* person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

Near-elderly family. A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

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Net family assets. (1) Net family assets is the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment. (2) In determining net family assets, HRAs or owners, as applicable, must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets. (3) Excluded from the calculation of net family assets are: (i) The value of necessary items of personal property; (ii) The combined value of all non-necessary items of personal property if the combined total value does not exceed $50,000 (which amount will be adjusted by HUD in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers); (iii) The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; (iv) The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located; (v) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability; (vi) The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986, the value of any qualified tuition program under section 529 of such Code, the value of any Achieving a Better Life Experience (ABLE) account authorized under Section 529A of such Code, and the value of any "baby bond" account created, authorized, or funded by Federal, State, or local government. (vii) Interests in Indian trust land; (viii) Equity in a manufactured home where the family receives assistance under 24 CFR part 982; (ix) Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982; (x) Family Self-Sufficiency Accounts; and (xi) Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family. (4) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the trust fund is not a family asset and the value of the trust is not included in the calculation of net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household.

Noncitizen. *A* person who is neither a citizen nor national of the United States.

Non-public housing over-income family. A family whose income exceeds the over-income limit for 24 consecutive months and is paying the alternative non-public housing rent.

Over-income family. A family whose income exceeds the over-income limit.

Over-income limit. The over-income limit is determined by multiplying the applicable income limit for a very low-income family, as defined in 24 CFR 5.603(b), by a factor of 2.4.

HRA Plan. The annual plan and the 5-year plan as adopted by the HRA and approved by HUD.

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Participant (participant family). A family that has been admitted to the HRA program and is currently assisted in the program.

Person with disabilities. *For the purposes of program eligibility*. A person who has a disability as defined under the Social Security Act or Developmental Disabilities Care Act, or a person who has a physical or mental impairment expected to be of long and indefinite duration and whose ability to live independently is substantially impeded by that impairment but could be improved by more suitable housing conditions. This includes persons with AIDS or conditions arising from AIDS but excludes persons whose disability is based solely on drug or alcohol dependence. *For the purposes of reasonable accommodation.* A person with a physical or mental impairment that substantially limits one or more major life activities, a person regarded as having such an impairment, or a person with a record of such an impairment.

Premises. The building or complex in which the dwelling unit is located, including common areas and grounds.

Previously unemployed. With regard to the earned income disallowance, a person who has earned, in the 12 months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

Public assistance. Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by federal, state, or local governments.

Public housing agency (HRA). Any state, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

Real property. Has the same meaning as that provided under the law of the State in which the property is located.

Reasonable accommodation. A change, exception, or adjustment to a rule, policy, practice, or service to allow a person with disabilities to fully access the HRA's programs or services.

Recertification. Sometimes called *reexamination.* The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

Remaining member of the tenant family. The person left in assisted housing who may or may not normally qualify for assistance on their own circumstances (i.e., an elderly spouse dies, leaving widow age 47 who is not disabled).

Residency preference. AN HRA 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 HRA administering the program under an ACC with HUD.

Secretary. The Secretary of Housing and Urban Development.

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Seasonal worker. An individual who is hired into a short-term position and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry.

Section 8. Section 8 of the United States Housing Act of 1937; refers to the housing choice voucher program.

Security deposit. A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the HRA upon termination of the lease.

Sexual assault. Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent (42 U.S.C. 13925(a))

Sexual orientation. Homosexuality, heterosexuality or bisexuality.

Single person. A person living alone or intending to live alone.

Social security number (SSN). The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

Specified welfare benefit reduction. Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

Spouse. The marriage partner of the head of household.

Stalking. To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

State wage information collection agency (SWICA). The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

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Technological abuse. An act or pattern of behavior that occurs within domestic violence, dating violence, sexual assault, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor another person, except as otherwise permitted by law, that occurs using any form of technology, including but not limited to:

- Internet enabled devices
- Online spaces and platforms
- Computers
- Mobile devices
- Cameras and imaging programs
- Apps
- Location tracking devices
- Communication technologies
- Any other emergency technologies

Tenant. The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

Tenant rent. The amount payable monthly by the family as rent to the HRA.

Total tenant payment (TTP). The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

Unearned income. Any annual income, as calculated under § 5.609, that is not earned income.

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 an HRA of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

Utility reimbursement. The amount, if any, by which the utility allowance for the unit, if applicable, exceeds the total tenant payment (TTP) for the family occupying the unit.

Veteran. A person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released therefrom under conditions other than dishonorable.

Violence Against Women Act (VAWA). Prohibits denying admission to, denying assistance under, or evicting from a public housing unit an otherwise qualified applicant or tenant on the basis that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

Violent criminal activity. Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

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Waiting list. A list of families organized according to HUD regulations and HRA policy who are waiting for a unit to become available.

Welfare assistance. Income assistance from federal or state welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families. For the FSS program (24 CFR 984.103), *welfare assistance* includes only cash maintenance payments designed to meet a family's ongoing basic needs. Does not include nonrecurring short term benefits designed to address individual crisis situations, work subsidies, supportive services such as child care and transportation provided to families who are employed, refundable earned income tax credits, contributions to and distributions from Individual Development Accounts under TANF, services such as counseling, case management, peer support, child care information and referral, financial empowerment, transitional services, job retention, job advancement, and other employment-related services that to not provide basic income support, amounts solely directed to meeting housing expenses, amounts for health care, Supplemental Nutrition Assistance Program (SNAP) and emergency rental and utilities assistance, SSI, SSDI, or social security, and child-only or non-needy TANF grants made to or on behalf of a dependent child solely on the basis of the child's need and not the need of the child's current non-parental caretaker.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Housing
Office of Public and Indian Housing

Special Attention of:

Multifamily Asset Management Division Directors
Multifamily Contract Administrators
Multifamily Project Owners
Multifamily Regional Center Directors
Public Housing Agencies
Public Housing Hub Office Directors
Public Housing Program Center Directors
Regional Directors
Field Office Directors
Resident Management Corporations

Notice H 2023–10

Notice PIH 2023–27

Issued: September 29, 2023

Expires: This Notice remains in effect until amended, superseded, or rescinded.

Cross References:

Regulations: 24 CFR Parts 5, 882, 891, 960, 966, 982

Office of Housing Notices: H 2020–06; H 2019–06; H 2016–01; H 2015–12

Office of Public and Indian Housing Notices: PIH 2019–09; PIH 2017–05 (HA); PIH 2016–05; PIH 2015–21; PIH 2013–04 (HA); PIH 2012–29; PIH 2012–03; PIH 2012–1 (HA)

Implementation Guidance: Sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA)

1. PURPOSE

The purpose of this notice is to provide guidance to Public Housing Agencies (PHAs) and Multifamily Housing (MFH) Owners on the implementation of the many program changes brought about by the Housing Opportunity Through Modernization Act of 2016 (HOTMA) sections 102 and 104 and detailed in the final rule published in *Federal Register* Notice 88 FR 9600 on February 14, 2023. Although the final rule addresses sections 102, 103, and 104, this notice addresses guidance for sections 102 and 104 only.[1]

Through this notice, HUD is also modernizing its documentation requirements to reduce the burden on families accessing housing assistance in support of Office of Management and Budget (OMB) Memo M-22-10, *Improving Access to Public Benefits Programs Through the Paperwork Reduction Act*.

2. BACKGROUND

HOTMA was signed into law on July 29, 2016 (Public Law 114–201, 130 Stat. 782). The HOTMA statute consists of 14 sections of law that affect the Public Housing and Section 8 rental assistance programs. On September 17, 2019, HUD issued a proposed rule to

[1] The Office of Public and Indian Housing (PIH) published a separate notice on section 103 of HOTMA. See *Supplemental Guidance for Implementation of Section 103; Limitation on Public Housing Tenancy for Over-Income Families under the Housing Opportunity Through Modernization Act of 2016 (HOTMA)* (Notice PIH 2023–03 (HA)).

update its regulations according to HOTMA's statutory mandate. The proposed rule may be found at 84 FR 48820 (September 17, 2019).

Sections 102 and 104 of HOTMA make sweeping changes to the United States Housing Act of 1937 (1937 Act), particularly those affecting income calculations and reviews. **Section 102** changes requirements related to income reviews for Public Housing and Section 8 programs. **Section 104** sets maximum asset limits for Public Housing and Section 8 applicants and participants.

Section 102 of HOTMA applies to all PHAs operating a Housing Choice Voucher (HCV) (including Project-Based Vouchers), Public Housing; Section 8 Moderate Rehabilitation, or Section 8 Moderate Rehabilitation Single Room Occupancy (SRO), including Moving to Work (MTW) Agencies (see Section 4 (Notice Applicability) of this notice). Section 102 also applies to the following programs administered by MFH: Section 8 Project-Based Rental Assistance (PBRA), 202/8, 202/162 Project Assistance Contract (202/162 PAC), Section 202/811 Capital Advance with Project Rental Assistance Contract (202/811 PRAC), non-insured 236 projects with Interest Reduction Payments (236 IRP), Section 811 Project Rental Assistance Demonstration (811 PRA), and Senior Preservation Rental Assistance Contracts (SPRAC).[2] Section 102 is effective on January 1, 2024. HUD plans to address the applicability of HOTMA to the 202/162 Project Assistance Contract (202/162 or 202/PAC) program in a subsequent update to this notice.

Section 104 of HOTMA applies to all PHAs operating an HCV, Public Housing, Section 8 Moderate Rehabilitation, or Section 8 Moderate Rehabilitation SRO program, including MTW Agencies (see Section 4 (Notice Applicability) of this notice). Section 104 also applies to the following programs: Section 8 PBRA and202/8. Section 104 does not apply to following programs: 202/811 PRAC, 236 IRP, 811 PRA, and SPRAC. Section 104 is effective on January 1, 2024. HUD plans address the implementation of Section 104 to HUD programs in a subsequent update to this notice.

HUD, through rulemaking,[3] implemented sections 102 and 104 through several changes to the following Public Housing and Section 8 regulations:

- 24 CFR Part 5: General HUD Program Requirements; Waivers
- 24 CFR Part 882: Section 8 Moderate Rehabilitation Programs
- 24 CFR Part 960: Admission to, and Occupancy of, Public Housing
- 24 CFR Part 982: Section 8 Tenant-Based Assistance: Housing Choice Voucher Program

HUD also made conforming changes to its regulations found in 24 CFR Part 891, which govern the Section 202 and 811 Capital Advance programs and the Section 202 Direct Loan program (202/8). These programs are affected by various changes to the income regulatory provisions in 24 CFR Part 5. HUD, in error, did not make conforming changes

[2] HUD administratively extended the applicability of Section 102 of HOTMA to the following programs: 202/162, 202/811 PRAC, 811 PRA, and SPRAC.

[3] *Federal Register*: Housing Opportunity Through Modernization Act of 2016: Implementation of Sections 102, 103, and 104.

to certain Section 202 Direct Loan regulations, consistent with the HOTMA final rule, in 24 CFR Part 891, Subpart E, including 891.655, 891.740, and 891.750, which govern 202/162 PAC projects. HUD intends to publish conforming changes to the Section 202/162 PAC program regulations as a technical correction that is anticipated to become effective on January 1, 2024.[4] The revised Section 202 Direct Loan regulatory references in this notice will become effective with the effective date of the forthcoming technical correction.

Note: The final rule does not otherwise revise or modify any other federal laws or regulations. PHAs/MFH Owners must continue to follow all laws and regulations as codified in statute and in the Code of Federal Regulations.

3. BURDEN REDUCTION AND PROGRAM ALIGNMENT

OMB Memo M-22-10, *Improving Access to Public Benefits Programs Through the Paperwork Reduction Act*, challenges federal agencies to review documentation requirements for those accessing public benefits programs like HUD's rental assistance programs. Through the process of implementing HOTMA, HUD has reviewed its verification and documentation requirements for admission and continued occupancy, including the use of HUD's Enterprise Income Verification (EIV) system in the Public Housing, Housing Choice Voucher, and the Multifamily Housing programs listed above. These programs share regulatory language around the requirement to obtain third-party verification of family annual income, the value of assets, expenses related to deductions from annual income and other factors that affect the determination of adjusted income (§§ 5.659(d), 960.259(c), 982.516(a)(2)).

Through this notice, HUD is aligning the timeframes within which documentation must be dated and the breadth of documentation required to verify tenant bank accounts and employment income across PIH and MFH programs. Consistency among HUD's programs will reduce burden among tenants who move from one program to another and among entities that administer multiple HUD programs.

4. NOTICE APPLICABILITY

HOTMA updates and creates new rules for HCV (including Project-Based Vouchers), Moderate Rehabilitation, Moderate Rehabilitation SRO, Public Housing, and Multifamily Housing (MFH) programs. HUD's revisions to the Part 5 income regulations will also affect certain programs administered by the Office of Community Planning and Development (CPD).[5] HUD reminds PHAs/MFH Owners that they are required to meet all program requirements on rental units assisted and/or developed by multiple HUD programs.

This notice applies only to the following programs:

- Housing Choice Voucher (HCV);

[4] There are several areas in the regulatory timeline that HUD does not control and may impact the effective date.

[5] CPD will issue separate guidance on how HOTMA impacts its programs.

- Public Housing;
- Section 8 Moderate Rehabilitation (Mod Rehab);
- Section 8 Moderate Rehabilitation Single Room Occupancy (SRO);
- Section 8 Project-Based Rental Assistance (PBRA);
- Section 202/8;
- Section 202/811 Capital Advance with Project Rental Assistance Contracts (202/811 PRAC);
- Non-insured 236 projects with Interest Reduction Payments (236 IRP);
- Section 811 Project Rental Assistance (811 PRA); and
- Senior Preservation Rental Assistance Contracts (SPRAC).

The contents of this notice apply to PHAs participating in the MTW program except where an approved MTW waiver is in place. For example, MTW PHAs that have previously developed a different method of measuring prior-year income as part of the Rent Reform Demonstration or Stepped and Tiered Rent Demonstration may continue to use those methods after this notice takes effect. References to form HUD–50058 in this notice take on the meaning of form HUD–50058 MTW for MTW PHAs and form HUD–50058 MTW Expansion for MTW Expansion PHAs.

5. STRUCTURE OF THIS PUBLICATION

This notice is organized by distinct topic areas to assist PHAs/MFH Owners in identifying programmatic changes that affect their operations. Each topic area is presented as an attachment to the notice. Each attachment follows a uniform structure:

- Regulation(s)
- Affected Program(s)
- Summary of Change(s)
- Subtopics

Within each topic area, and in some cases within subtopic areas, the notice indicates whether PHAs/MFH Owners have discretion in establishing policies within their individual programs.

6. EFFECTIVE DATE, COMPLIANCE, AND UPDATES TO PHA/MFH OWNER POLICIES

The final rule's effective date is January 1, 2024. HUD recognizes, however, that HOTMA includes significant program and systems changes and that PHAs/MFH Owners and families need time to understand the changes and implement them. HUD understands that the system development timeframes for the Housing Information Portal (HIP) and Tenant Rental Assistance Certification System (TRACS) make full implementation and compliance with the final rule by the January 1, 2024, deadline unlikely. Additionally, because these HOTMA changes apply to all current participants and new admissions, implementation of the HOTMA final rule cannot be achieved immediately on a universal basis but rather is an ongoing process that will happen over the course of a year as routine

program activities occur. Subparagraphs 6.1 and 6.2 describe HUD's implementation requirements by program office.

6.1 Compliance Date and Required Actions for PHAs (Office of Public and Indian Housing)

To comply with HOTMA, PHAs must be able to submit transactions to the Housing Information Portal (HIP). This requires the PHA's software vendor to make system updates and fully convert to making all submissions to HIP. Each PHA will set its own compliance date as early as January 1, 2024, but no later than January 1, 2025. "Compliance" means, in this instance, utilizing the HOTMA rules as it applies to the affected programs and corresponding reporting in HIP. The Real Estate Assessment Center (REAC) will issue a separate HIP transition notice later this year.

Requirements for Updating PHA Annual Plans:

- The deadline to submit the updated PHA Annual Plan to HUD will depend on the PHA's fiscal year start date. However, the PHA's chosen compliance date should also be considered.
- The regulations (24 CFR § 903.5(b)(3)) require that a PHA submit its PHA Annual Plan 75 days prior to the beginning of its fiscal year. To best utilize the required PHA Plan process for review and discussion of the ACOP at the public hearing, PHAs must also submit their PHA Annual Plan to HUD at least 75 days before their compliance date or their Fiscal Year start date, whichever is sooner. See Table 1, below, to determine the due date of your PHA's Annual Plan based on your fiscal year start date and compliance date.
- PHAs must update their Public Housing Admissions and Continued Occupancy Policies (ACOP) and HCV Administrative Plans to reflect HOTMA rules and discretionary decisions, including the required public notification and review.
- The plans will indicate that policies are not effective until the PHA's compliance date.

Note: PHAs must continue to follow their existing ACOPs and Administrative Plans until the PHA's software is compliant with HIP.

What PHAs must do once their software is HOTMA compliant:

- Each PHA will establish a compliance date based on when the PHA's software is able to submit to HIP. All transactions **effective** on the PHA's compliance date or later will be processed using HOTMA policies. In setting a compliance date the PHA must consider when its software will be ready to submit to HIP and the time needed to ensure that all transactions effective on that day are processed using HOTMA rules. For example, a PHA with a May 1, 2024, compliance date will need to send Annual Reexamination packets reflecting the HOTMA changes in January 2024. The PHA must inform the family as to whether their income determination is being conducted under the pre-HOTMA regulations or in accordance with the HOTMA final rule.
- PHAs must implement their revised ACOP and Administrative Plans.

PHA Annual Plan Due Date Based on PHA's Fiscal Year Start Date and Compliance Date:

The 4 columns on the right represent Fiscal Year Start Dates and the rows represent possible Compliance Dates. When a PHA determines its Compliance Date, it can use this table to determine the Annual Plan due date by locating the appropriate Compliance Date row and then finding the column with its Fiscal Year Start Date.

Note: PHAs must pick a compliance date that falls before the deadline for their PHA Plan submission.

Table 1: Recommended Annual Plan Due Date

Compliance Date	FY Start: July 1, 2024	FY Start: October 1, 2024	FY Start: January 1, 2025	FY Start: April 1, 2025
January 1, 2024	October 18, 2023	October 18, 2023	Oct 18, 2024	October 18, 2023
February 1, 2024	November 18, 2023	November 18, 2023	November 18, 2023	November 18, 2023
March 1, 2024	December 17, 2023	December 17, 2023	December 17, 2023	December 17, 2023
April 1, 2024	January 16, 2024	January 16, 2024	January 16, 2024	January 17, 2024
May 1, 2024	February 16, 2024	February 16, 2024	February 16, 2024	February 16, 2024
June 1, 2024	March 18, 2024	March 18, 2024	March 18, 2024	March 18, 2024
July 1, 2024	April 17, 2024	April 17, 2024	April 17, 2024	April 17, 2024
August 1, 2024	April 17, 2024	May 18, 2024	May 18, 2024	May 17, 2024
September 1, 2024	April 17, 2024	June 18, 2024	June 18, 2024	June 18, 2024
October 1, 2024	April 17, 2024	July 18, 2024	July 18, 2024	July 18, 2024
November 1, 2024	April 17, 2024	July 18, 2024	August 18, 2024	August 18, 2024
December 1, 2024	April 17, 2024	July 18, 2024	September 17, 2024	September 17, 2024

January 1, 2025	April 17, 2024	July 18, 2024	October 18, 2024	October 18, 2024
Latest Submission Deadline	April 17, 2024	July 18, 2024	October 18, 2024	October 18, 2024

By January 1, 2025:

Full compliance with the HOTMA final rule is mandatory effective January 1, 2025. HUD expects many PHAs will comply before this date, once software systems are ready.

Compliance Example:

In March 2024, the PHA's software vendor says they will be ready to submit to HIP in June 2024. The PHA sets their compliance date as August 1, 2024, to allow for enough time to send out recert packets that reflect HOTMA changes in April 2024 for families with an August 1, 2024, annual reexamination effective date. The PHA's fiscal year start date is October 1, 2024. Based on the compliance date table above, the PHA determines that they must submit their updated Annual Plan to HUD by May 18, 2024. The PHA posts on their Web site that they will be applying the new HOTMA changes to all transactions effective August 1, 2024. They also send notifications to participants, so they understand the new rules for reporting interim changes.

6.2 Compliance Date and Required Actions for MFH Owners (Office of Multifamily Housing)

By March 31, 2024:

- By March 31, 2024, MFH Owners must update their Tenant Selection Plans and EIV policies and procedures to reflect HOTMA rules and discretionary policies.
- MFH Owners must make the revised Tenant Selection Plan publicly available.

Note: MFH Owners must continue to follow their existing Tenant Selection Plans and EIV policies & procedures until the MFH Owner's software is compliant with TRACS 203A.

What MFH Owners must do once their software is HOTMA compliant:

Once a MFH Owner's software is HOTMA compliant (i.e., TRACS 203A system requirements have been fully implemented), the following things must happen:

- MFH Owners must provide tenants at least 60 days' notice that their lease will be modified at the end of the lease term after the expiration of the 60 days' notice. Once proper notice is given, MFH Owners must begin using the revised Model Leases at the expiration of a family's lease term.
- MFH Owners must implement their revised Tenant Selection Plans and EIV policies and procedures.
- All tenant data submissions must comply with the HOTMA regulations. Prior to their first reexaminations under HOTMA, MFH Owners must inform families that their income determinations will be conducted in accordance with the HOTMA final rule.

As a best practice, HUD recommends that MFH Owners describe to families how their income determinations will change with the implementation of the final rule.

- MFH Owners must use the revised Tenant Consent form (form HUD–9887/9887A) and Fact Sheets ("How Your Rent is Determined").

How HUD will monitor MFH Owner compliance prior to January 1, 2025:

- Prior to January 1, 2025, MFH Owners will not be penalized for HOTMA-related tenant file errors during Management and Occupancy Reviews (MORs). Instead, the Contract Administrator will issue observations with corrective actions.

By January 1, 2025:

- Full compliance with the HOTMA final rule is mandatory effective January 1, 2025.

How HUD will monitor owner compliance on or after January 1, 2025:

- Contractor Administrators will issue HOTMA-related findings during MORs.
- MFH Owners must correct all HOTMA-related observations that were issued by Contract Administrators during 2024.
- MFH Owners who fail to implement HOTMA may be found in default of their business agreements with HUD.

Questions about compliance should be directed to MFH_HOTMA@hud.gov.

MFH Model Leases

MFH is updating the five program Model Leases to conform to the requirements in the HOTMA final rule. MFH Owners must begin using the new HUD-approved leases once HOTMA is fully implemented at the property.

The following information outlines the process that MFH Owners must follow to renew families under the applicable revised Model Lease:

- **Any modification to the lease may be effective only at the end of a lease term for all MFH programs.** Lease terms are listed in paragraph 2 in form HUD–90105–A (Section 8 Model Lease); paragraphs 1 and 9 in form HUD–90105–B (202/8 Model Lease); paragraphs 1 and 8 in form HUD–90105–C (202 PRAC Model Lease); paragraphs 1 and 8 in form HUD–90105–D (811 PRAC Model Lease); and paragraphs 1 and 8 in form HUD–92236 (811 PRA Model Lease).
- MFH Owners must provide families with copies of the HUD-approved lease at least 60 days prior to the end of a family's lease term.
- MFH Owners must include a letter clearly stating that the family can either accept the modification or move, but that a response is due from the family within 30 days.

- Families must either accept the modification by signing both copies of the modification and returning one to the MFH Owner[6] or refuse the modification and give the owner a 30-day notice of intent to vacate.
- If, within 30 days, the family indicates that the modification is unacceptable or does not respond, the MFH Owner may begin the procedures for terminating tenancy.

The lease modification notice must be served to families in the following manner[7]:

1) The MFH Owner must send a letter by first-class mail, properly stamped, and addressed and including a return address, to the family at the unit address; **and**

2) The MFH must deliver a copy of the notice to any adult person answering the door at the unit. If no adult answers the door, the person serving the notice may place it under or through the door or affix it to the door.

The date on which the notice is deemed received by the family is the later of:

1) The date the first-class letter is mailed; or

2) The date the notice is properly given.

Service of the notice is deemed effective once the notice has been both mailed and hand-delivered. **MFH Owners are not permitted to deliver lease modification notices to families electronically.**

Families who are under old leases after the MFH Owner becomes compliant with HOTMA must continue to report income and household composition changes between annual reexaminations in accordance with their existing leases until they sign a revised lease. MFH Owners will be required to determine whether changes reported by families under the old lease will require an interim reexamination consistent with HOTMA's requirements. Since the remaining provisions reflect changes to existing regulatory provisions during the period of an existing lease, all other HOTMA final rule provisions can be implemented without the family's execution of a revised lease.

No other modifications may be made to the Model Leases without HUD's approval. MFH Owners may incorporate existing HUD-approved lease addenda into the revised Model Leases if the addenda do not conflict with the requirements of the final rule.

7. SUPERSEDED AND RESCINDED NOTICES

7.1 Guidebooks and Handbooks

This notice supersedes relevant portions of HUD's guidance as provided in the HCV Guidebook, the Public Housing Occupancy Program Guidebook, and the HUD Handbook 4350.3: Occupancy Requirements of Subsidized Multifamily Housing Programs. HUD will update and replace all the sections and chapters listed below. Before consulting one of these resources, please ensure you are using a version dated after the publication date

[6] Electronic signature is acceptable pursuant to Notice H 2020–10, except where not permitted by state and/or local laws.

[7] 24 CFR § 247.4(b), as applicable to 24 §§ CFR 891.430(b), 891.630(b), and 891.770(b).

of this notice. Questions regarding the relevancy of existing handbook/guidebook guidance should be directed to the HOTMA mailbox maintained by each program office.

HCV Guidebook chapters to be updated:

- Eligibility Determination and Denial of Assistance
- Reexaminations

Public Housing Occupancy Guidebook chapters to be updated:

- Eligibility Determination and Denial of Assistance
- Income Determination
- Reexaminations

HUD Handbook 4350.3: Occupancy Requirements of Subsidized Multifamily Housing Programs chapters to be updated:

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

7.2 Housing and PIH Notices

This notice supersedes and replaces the guidance provided in the following program notices:

- *Exclusion from Annual Income of Temporary Employment from the U.S. Census Bureau* (H 2020–06)
- *Verification of Social Security Numbers (SSNs), Social Security (SS) and Supplemental Security Income (SSI) Benefits; and Effective Use of the Enterprise Income Verification (EIV) System's Identity Verification Report* (PIH 2018–24)
- *Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System* (PIH 2018–18)
- *Income exclusion under temporary Census employment and Census access* (PIH 2017–05)
- *Passbook Savings Rate Effective February 1, 2016* (H 2016–01)
- *Amendment to the Definition of Tuition* (PIH 2015–21/H 2015–12)
- *Guidance on Verification of Excluded Income* (PIH 2013–04 (HA))
- *Establishing the Passbook Savings Rate* (PIH 2012–29)

- *Housing Choice Voucher – Homeownership Option 10 Year Asset Exclusion* (PIH 2012–03)
- *Income Exclusion of Kinship, Kin-GAP and Other Guardianship Care Payments* (PIH 2012–01 (HA))

Streamlining Administrative Practices in the Housing Choice Voucher program (Notice PIH 2012–15) is still useful for PHAs who are streamlining their programs. Numerous provisions in that notice are no longer applicable or additional flexibilities have been offered through more recent PIH notices. As it relates to the HOTMA final rule, however, the notice includes numerous recommendations surrounding interim reexaminations and annual reexaminations that are no longer applicable. Therefore, HUD is rescinding PIH Notice 2012–15.

The following sections of *Streamlining Program Regulations for Programs Administered by Public Housing Agencies* (Notice PIH 2016–05) are rescinded:

C: "Exclusion of mandatory education fees from income"

E: "Earned income disregard"

F: "Family declaration of assets under $5,000"

N: "Family income and composition: regular and interim examinations"

The following Housing notices are partially rescinded by this notice:

- *Streamlining Administrative Regulations for Multifamily Housing Programs* (H 2016–09)
    - "24 CFR 5.216 – Verification of Social Security Numbers" (Section IV). This section of the notice states that an interim reexamination is required to add or update a household member's Social Security Number (SSN).
    - "24 CFR 5.609 – Definition Change – Exclusion of mandatory education fees from income" (Section VI). This section of the notice references the outdated income exclusion in 24 CFR § 5.609(b)(9).
- *Section 811 Project Rental Assistance (PRA) Occupancy Interim Notice* (H 2013–24)
    - "Annual Recertification" (Section IV.F). This section of the notice states that MFH Owners must conduct interim reexaminations as described in HUD Handbook 4350.3 REV-1, Chapter 7.
- *Enterprise Income Verification (EIV) System* (H 2013–06)
    - "Using EIV Reports" (Section VII). This section of the notice states that MFH Owners are required to use EIV Income Reports as a third-party source to verify a tenant's employment and income information during interim reexaminations.
    - "Use of EIV Reports" (Attachment 6). This attachment to the notice states that the use of EIV Reports (Income Report, Income Discrepancy Report, and Summary Report) is mandatory at interim reexaminations.

8. PAPERWORK REDUCTION ACT

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a currently valid OMB control number. The information collection requirements of this notice were assigned OMB Control Number 2577–0169, 2577–0295, 2577–0083, 2502–0204, 2577–0226, 2577–0282.

For questions regarding this notice please contact MFH_HOTMA@hud.gov for Multifamily Housing program questions or HOTMAQuestions@hud.gov for PIH program questions.

Julia Gordon

Julia R. Gordon
Assistant Secretary for Housing —
Federal Housing Commissioner

Richard J. Monocchio

Richard J. Monocchio
Principal Deputy Assistant Secretary
Public and Indian Housing

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ATTACHMENT A: TOPIC: ASSET LIMITATION

Regulations

24 CFR §§ 5.100 (real property); 5.603; and 5.618

Applicable Programs

HUD Multifamily Housing	HUD Multifamily Housing	Public and Indian Housing
Section 8 (Project Based Rental Assistance), Section 202/8	Section 202/811 PRAC, Section 236 IRP, Section 811 PRA, SPRAC	HCV (including Project-Based vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO
Yes	No	Yes

Summary

Per requirements in Section 104 of HOTMA, 24 CFR 5.618 creates a restriction on the eligibility of a family to receive assistance if the family owns real property that is suitable for occupancy by the family as a residence or has assets in excess of $100,000, as adjusted annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers.

Pursuant to 24 CFR 5.618(c), PHAs/MFH Owners are given discretion at reexamination in enforcing the asset limitation on eligibility for assistance in § 5.618(a). HUD will issue additional guidance on the use of this discretionary authority.

ATTACHMENT B: TOPIC: CALCULATING INCOME

Regulations

24 CFR §§ 5.609(c)(1); 5.609(c)(2); 5.609(c)(4); 5.657(f); 882.515; 882.515(f); 882.808; 882.808(i)(5); 891.105; 891.410(c); 891.410(g)(1); 891.410(g)(2); 891.610(c); 891.610(g)(1); 891.610(g)(2); 960.257; 982.516; and 982.516(f)

Applicable Programs

HUD Multifamily Housing	HUD Multifamily Housing	Public and Indian Housing
Section 8 (Project Based Rental Assistance)	Section 202/8, Section 202/811 PRAC, Section 236 IRP, Section 811 PRA, SPRAC	HCV (including Project-Based vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO
Yes	Yes	Yes

Summary

See each subtopic.

Subtopics

B.1 New Admissions and Interim Reexaminations

Regulations: 24 CFR §§ 5.609(c)(1); 882.515; 891.410(c) and (g)(2); 891.610(c) and (g)(2); 960.257; and 982.516

Summary: When calculating a household's income, including asset income, at the time of admission to the program or during interim reexaminations, PHAs/MFH Owners must use anticipated income (current income) (i.e., the family's estimated income for the upcoming 12-month period). This requirement is consistent with the pre-HOTMA process for conducting income examinations at admission and for interim reexaminations.

B.2 Annual Reexaminations

Regulations: 24 CFR §§ 5.609(c)(2); 882.808; 891.410(g)(1); and 891.610(g)(1) 960.257; and 982.516

Summary: The final rule revises the standards for income calculation during annual reexamination.

PHAs/MFH Owners have the option of using a "safe harbor" income verification from another federal means-tested program to verify gross annual income. See Attachment J (paragraph J.4) (Determination of Income Using Other Means Tested Public Assistance (i.e., "Safe Harbor")) of this notice for an example of how to calculate annual income using the safe harbor method.

During annual reexaminations, except where the PHA/MFH Owner uses a streamlined income determination under 24 CFR §§ 5.657(d), 960.257(c), or 982.516(b) (see Attachment I (paragraph I.8) (Streamlined Income Determination)), PHAs/MFH Owners must first determine the family's income for the previous 12-month period and use this

amount as the family income for annual reexaminations; however, adjustments to reflect current income must be made. Any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination of family income in accordance with the PHA/MFH Owner's policies and 24 CFR §§ 5.657(c), 960.257(b), or 982.516(c), must be considered. Income from assets is always anticipated, irrespective of the income examination type.

A change in income, for example, 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. PHA/MFH Owners will look at the entirety of the family's unearned income and earned income from the prior year, in which earned income may have been one constant job or many different jobs that start and stop. Cost of Living Adjustments (COLA) to Social Security income and Social Security disability income are always considered changes to income because the COLA is an adjustment that automatically occurs annually by law.[B1] See Attachment B (paragraph B.3) of this notice for more information on the COLA. The three steps outlined below apply for both earned and unearned income.

Overview of Calculating Annual Income at Annual Reexamination

Step 1: Determine the annual income for the previous 12-month period as defined at 24 CFR § 5.609(a) and (b). If there have been no changes to income beyond this calculation, then this is the amount that will be used to determine the family's rental assistance.

The PHA/MFH Owner reviews the following information to determine prior-year income:

- The EIV Income Report (must be pulled within 120 days of the effective date of the annual reexamination to be considered current);
- The income reported on the most recent reexamination HUD–50058/HUD–50059; and
- What the family certified to on the PHA/MFH Owner's annual reexamination paperwork for prior-year income.

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination.

- If there was an interim reexamination performed, the PHA/MFH Owner must use the annual income from the interim to determine the family's rental assistance, if there are no additional changes.
- If the PHA/MFH Owner did not perform an interim or there have been changes since the last reexamination, move to Step 3.

Step 3: If there were changes in annual income not processed by the PHA/MFH Owner since the last reexamination, use current income.

[B1] P.L. 92–336: https://www.govinfo.gov/content/pkg/STATUTE-86/pdf/STATUTE-86-Pg406.pdf#page=16.

- Family reports their income for the prior year and whether there have been permanent changes.

If there are no reported changes to an income source, the PHA/MFH Owner may use documentation of prior-year income to calculate the annual income used for the current annual reexamination HUD–50058/HUD–50059. For example, the PHA/MFH Owner could use the following documentation and certification from the family:

- EIV + self-certification (wages, Supplemental Security Income (SSI), Social Security, and unemployment)
- Current level 4[B2] documents verifying prior-year income that are dated within the required timeframe (120 days of receipt by the PHA/MFH Owner), for example:
  - Year-end statement
  - Paycheck with year-to-date amount
  - Tax forms (Form 1040, W2, 1099, etc.)

If there are reported changes by the family or the PHA/MFH Owner notes discrepancies between EIV and what the family reports, follow the verification hierarchy to document and verify income. See Attachment J (paragraph J.5) (Verification Hierarchy) of this notice for information about verification.

Example B1: Calculating Annual Income at Annual Reexamination Using EIV

Background: Staff are processing the 3/1/2024 annual reexamination for Ruby Myers and her minor daughter, Georgia. No interim reexaminations have been processed, and Ruby has not reported any changes to annual income to the PHA/MFH Owner since the 3/1/2023 annual reexamination. The SSA published 2024 COLA is 7 percent.
Last reexamination – 3/1/2023 Annual Reexamination
Ruby: — Georgia:
Wages: $30,000 — SSI: $10,980 ($915 monthly)
The EIV report pulled on 12/15/2023
Ruby: — Georgia:
Wages Total: $33,651 — SSI Total: $10,980
Quarter 3 of 2023: $8,859 (City Public School) — 2023 benefit $915 monthly
Quarter 2 of 2023: $8,616 (City Public School)
Quarter 1 of 2023: $8,823 (County Public School)
Quarter 4 of 2022: $7,353 (County Public School)

[B2] See Table J2.

<table>
<tr><td colspan="2">Income Reported on Reexamination Application</td></tr>
<tr><td>Ruby:

Wages at City Public School: $32,000 (switched jobs but no permanent change to amount)</td><td>Georgia:

SSI benefits: $10,980 (no changes in income)</td></tr>
<tr><td>Calculating Ruby's wages:

Step 1: Determine prior annual income from EIV (i.e., Q4 2022 through Q3 of 2023: $33,651).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination).

Step 3: Ruby certifies that the $33,651 of wages in EIV is accurate and reflects her current annual income, so the PHA/MFH Owner will use $33,651 for annual wages for the 3/1/2024 annual reexamination given there have been no additional changes to annual income.</td><td>Calculating Georgia's SSI benefit:

Step 1: Determine the prior annual income from EIV (i.e., $915 x 12 months: $10,980).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination).

Step 3: Ruby certifies the SSI income in EIV is accurate and reflects Georgia's current annual income. The PHA/MFH Owner must adjust the prior-year income (2023 SSI benefit) by the 7-percent COLA and will use this amount to calculate annual SSI income for the 3/1/2024 annual reexamination:

COLA: $64.05 ($915 x 0.07)

New gross SSI benefit: $11,748.60 ($979.05 x 12 months)</td></tr>
<tr><td colspan="2">If Ruby did not agree with the annual wages reported in EIV, the PHA/MFH Owner would be required to verify her current income in accordance with HUD's verification hierarchy in Attachment J (paragraph J.5) (Verification Hierarchy) of this notice.</td></tr>
<tr><td colspan="2">Summary of Annual Income (as reported on the HUD–50058/HUD–50059)</td></tr>
<tr><td>Ruby (Head of Household):

Other Wage: $33,651</td><td>Georgia (Other Youth Under 18):

SSI: $11,748</td></tr>
<tr><td colspan="2">Myers Family Total Annual Income: $45,399</td></tr>
</table>

Example B2: Calculating Annual Income at Annual Reexamination Using EIV: Family Disagrees with EIV

Background: Staff are processing Paul Hewson's 5/1/2024 annual reexamination. Since the last annual reexamination, Paul reported a decrease in annual income that exceeded 10 percent. Last year, Paul reported a decrease in earned income because he transferred from a full-time job at Sasha's Sweets to a part-time job at Viking Bakery. Following HUD's EIV verification hierarchy, staff confirmed Paul was no longer employed at Sasha's Sweets and decreased his anticipated annual income from $28,000 to $7,500 resulting from his new part-time employment at Viking Bakery; an interim reexamination was processed effective 7/1/2023. After the 7/1/2023 interim, Paul worked briefly at two different jobs, but he says he is no longer working and is not planning to work.

5/1/2023 Annual Reexamination

Wages: $28,000

Last Reexamination: 7/1/2023 Interim Reexamination

Wages: $7,500

The EIV report pulled on 1/15/2024

Wages Total: $18,271

Quarter 3 of 2023: $2,500 (Viking Bakery)

Quarter 3 of 2023: $796 (Sweet Tooth Candy Bar)

Quarter 2 of 2023: $1,300 (Sasha's Sweets)

Quarter 2 of 2023: $584 (Larry's Concessions)

Quarter 2 of 2023: $2,401 (Viking Bakery)

Quarter 1 of 2023: $6,500 (Sasha's Sweets)

Quarter 4 of 2022: $600 (Sasha's Sweets)

SS/SSI: No history of benefits.

Income Reported on Reexamination Application

Wages: $0 (permanent change; no longer receiving)

Social Security: $14,400 ($1,200 monthly)

Paul certified on the PHA's annual reexamination paperwork that he does **not** agree with the annual wages of $18,271 reported in EIV and it is not reflective of his current anticipated annual income. He reported he is currently unemployed, and provided a copy of an award letter from the Social Security Administration to document that he will begin receiving a monthly disability benefit of $1,200 effective 3/1/2024.

Calculating Wages and SS Benefit

Step 1: Determine prior annual income taking into consideration the 8/1/2023 interim reexamination (i.e., EIV wages reflected Q4 2022 through Q3 2023: $18,271)

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there was a 7/1/2023 interim that reduced wages to $7,500.

Step 3: Obtain documentation to verify current income and confirm Paul is no longer employed at Viking Bakery or The Sweet Tooth Candy Bar (the employers reported in the most recent quarter of EIV). This step is necessary, because Paul did not agree with the EIV income report or income reported on the last interim reexamination. Paul reported that he is no longer working at all.

Process the annual reexamination effective 5/1/2024 using annual SS income of $14,400 and $0 wages.

Summary of Annual Income (as reported on the HUD–50058/HUD–50059)
Paul (Head of Household): $14,400 (SS)
Hewson Family Total Annual Income: $14,400

Example B3: Calculating Annual Income at Annual Reexamination

Background: Staff are processing the 11/1/2024 annual reexamination for Samantha and Fergus Poole, head of household and spouse. On 2/14/2024 Samantha reported her monthly child support payment was reduced from $200 to $100 per month, but an interim reexamination was **not** processed, because the reduction in child support income for Samantha's daughter, Hailey, did not result in a decrease of 10 percent or more in annual adjusted income, and the PHA/MFH Owner did not establish a lower threshold (see Attachment I, paragraph I.1). Samantha did not report any additional changes to the PHA/MFH Owner.

Last reexamination – 11/1/2023 Annual Reexamination

Samantha:	Fergus:
Business income: $28,000	Wages: $8,250
VA disability pension: $12,000	Other non-wage income: $3,000 (Go Fund Me online fundraiser)
Child support: $2,400	

The EIV report pulled on 9/16/2024

Samantha:	Fergus:
Wages Total: $0 (no wage data reported since Q1 2023)	Wages Total: $8,600
	Quarter 1 of 2024: $2,100 (Ian's Fish 'n' Chips)
	Quarter 1 of 2024: $500 (Claire's Healthcare Supplies)
	Quarter 4 of 2023: $1,000 (Claire's Healthcare Supplies)
	Quarter 3 of 2023: $1,800 (The Onion Garden Shop)
	Quarter 2 of 2023: $3,200 (Ivar's Fish Haus)

Current Family Circumstances: Income Reported on Reexamination Application

Samantha and Fergus reported how much income was earned/received in the previous 12-month period and noted permanent changes, where applicable, for each source of their income on PHA/MFH Owner's annual reexamination form. However, no information was reported by the family concerning other non-wage income. Fergus reported **only** wages and his current employment at Ian's Fish 'n' Chips for the annual reexamination. The family supplied the supporting documentation noted below to the PHA/MFH Owner for the 11/1/2024 annual reexamination.

Samantha:	Fergus:
Business income: $28,750 (last year); has decreased to $18,000 (permanent change)	Wages: $6,000

VA disability benefit: $12,000 (last year); has increased to $12,300 (permanent change)

Child support: $2,400 (last year); has decreased to $1,200 (permanent change)

Calculating Samantha's Net Business Income

Step 1: Determine prior annual *net business income* (i.e., $28,000 on last HUD–50058/HUD–50059).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: Adjust to reflect current **net business income**. Samantha reported on the annual reexamination application that business income permanently decreased to $18,000. The PHA/MFH Owner must obtain supporting documentation from Samantha that demonstrates current net business income. Samantha provided documentation that supported the current annual net business income is $18,000. Process the annual reexamination effective 11/1/2024 using annual **net business income** determined in Step 3.

Calculating Samantha's VA Pension Income

Step 1: Determine prior annual **VA pension income** (i.e., $12,000 supported by a VA award letter Samantha supplied that documents the prior year monthly VA pension was $1,000).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: The PHA/MFH Owner needs to adjust to reflect current **VA pension income**. Samantha supplies a VA award letter showing a monthly pension of $1,025, or $12,300 annually. Process the annual reexamination effective 11/1/2024 using annual **VA pension income** determined in Step 3 ($12,300 in this example).

Calculating Samantha's Child Support Income

Step 1: Determine prior annual **child support income** (i.e., $2,400 on the last HUD–50058/HUD–50059).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination. The family reported a decrease from $200 to $100 monthly, but the change was not processed because it did not meet the threshold.

Step 3: The family reported changes, so the PHA/MFH Owner must adjust to reflect current **child support income**. In this example, the family submitted a child support history report from the local child support office that documents regular $100 monthly child supports payments beginning 3/1/2024 through the current month. Process the annual reexamination effective 11/1/2024 using current annual **child support income** determined in Step 3 ($1,200 in this example).

Calculating Fergus's Wages

Step 1: Determine prior annual income from **wages** in EIV (i.e., Q2 2023 through Q1 of 2024: $8,600).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: There is a discrepancy between what the family reported and EIV, so the PHA/MFH Owner must verify and adjust to reflect current annual income from **wages**. Fergus reported $6,000 in annual income from wages on the annual reexamination from a single employer, Ian's Fish 'n' Chips. The PHA/MFH Owner projected annual income of $7,800 based on the two paystubs for this employer, and EIV shows $8,600 earned in the most recent four quarters in EIV. To complete Step 3, the PHA/MFH Owner must do the following: resolve the discrepancy between EIV wages, the $6,000 annual income Fergus reported, and the $7,800 projected based on the paystubs he provided, and verify he is no longer employed at Claire's Healthcare Supplies in accordance with HUD's verification hierarchy and local policies. The PHA/MFH Owner determined that Fergus reported his net vs. gross annual income from **wages,** which he corrected on the annual reexamination form to reflect his current gross annual income of $9,000. The PHA/MFH Owner verified Fergus was no longer employed at Claire's Healthcare Supplies and obtained two additional paystubs. Based on four current and consecutive paystubs, Fergus is now projected to earn $9,360 annually. Process the annual reexamination effective 11/1/2024 using income from **wages** determined in Step 3 ($9,360 in this example).

Calculating Fergus's Other Non-Wage Income

Step 1: Determine prior annual income from other **non-wage income** (i.e., $3,000 on the last HUD–50058/HUD–50059).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: The family did not report any non-wage income on the annual reexamination form, but it was included on the last HUD–50058/HUD–50059. The PHA/MFH Owner must verify and adjust to reflect current **non-wage income**. The PHA/MFH Owner must verify no income was received through a "Go Fund Me" online fundraiser so that it may be excluded. Fergus provided a self-certification that he hasn't solicited funds online and doesn't plan to in the following year; he also provided records from the account that documented no fundraising activity in the prior 12-month period. Process the annual reexamination effective 11/1/2024 using annual **non-wage income** of $0 determined in Step 3.

Summary of Annual Income (as reported on the HUD–50058/HUD–50059)

Samantha (Head of Household):	Fergus (Co-head):
Own business: $18,000	Wages: $9,360
Pension: $12,300	
Child support: $1,200	

Poole Family Total Annual Income: $40,860

B.3 Applying the Current SSA COLA at Next Annual and Interim Reexamination

Regulations: 24 CFR §§ 5.609(c)(2); 960.257; 982.516; and 891.105

Summary: Annually in October, the Social Security Administration (SSA) announces the cost-of-living adjustment (COLA) by which federal SS and SSI benefits are adjusted to reflect the increase, if any, in the cost of living as measured by the Consumer Price Index for Urban Wage Earners and Clerical Workers prepared by the Bureau of Labor Statistics. The purpose of the COLA is to ensure that the purchasing power of SS and SSI benefits are not eroded by inflation. The federal COLA does not apply to state-paid disability benefits. Additional information regarding the SSA COLA is available online at www.socialsecurity.gov.

Effective the day after SSA has announced the COLA, PHAs/MFH Owners are required to factor in the COLA when determining SS and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1 or later of the upcoming year.

Example B4: Adjusting the SS Benefit by the COLA

Elizabeth Peterson receives $500 a month (SS benefit). The PHA/MFH Owner is processing her annual reexam (in November 2023), which is effective 1/1/2024. The PHA/MFH Owner must determine annual SS income as follows:

- Current benefit amount: $500
- COLA: $18.00 ($500 x 3.6 percent [or 0.036])
- New gross SS benefit effective 01/01/2024: $518.00 ($500 current benefit + $18 COLA)
- Annual SS income effective 1/1/2024: $6,216 ($518 x 12)

B.4 De Minimis Errors

Regulations: 24 CFR §§ 5.609(c)(4); 5.657(f); 960.257(f); 982.516(f); 882.515(f); 882.808(i)(5); 891.105; and 891.655

Summary: PHAs/MFH Owners will not be considered out of compliance solely due to de minimis errors in calculating family income. De minimis errors occur when a PHA/MFH Owner's determination of a family's income deviates from the correct income determination by no more than $30 per month in monthly adjusted income (or $360 in annual adjusted income). HUD may revise the threshold amount that constitutes a "de minimis error" through rulemaking. PHAs/MFH Owners will not be issued a finding by HUD or the Contract Administrator (MFH only) for de minimis errors in income calculation.

As PHAs/MFH Owners become aware of the existence of an income calculation error, they are obligated to correct the error(s) retroactive to the effective date of the action the error was made regardless of the dollar amount associated with the error. PHAs/MFH Owners must take corrective action to credit or repay a family if the family was overcharged tenant rent, including when PHAs/MFH Owners make de minimis errors in the income determination. Families will not be required to repay the PHA/MFH Owner in instances where the PHA/MFH Owner miscalculated income resulting in a family being undercharged for rent.

PHAs/MFH Owners must revise their Administrative Plans, ACOPs, and Tenant Selection Plans, as applicable, to reflect how they will repay or credit a family the amount they were overcharged as a result of the PHA/MFH Owner's de minimis error in income determination.

PHA/MFH Owner Discretion: None.

ATTACHMENT C: TOPIC: DEDUCTIONS AND EXPENSES

Regulations

24 CFR §§ 5.603; 5.611(a)(1); 5.611(a)(2); 5.611(a)(3); 5.611(a)(3)(ii); 5.611(b)(1); 5.611(b)(1)(i); 5.611(b)(1)(ii); 5.611(c)(1); 5.611(c)(1)(D); 5.611(c)(2); 5.611(d); 5.611(e); 5.611(e)(2); and 891.105

Applicable Programs

HUD Multifamily Housing	HUD Multifamily Housing	Public and Indian Housing
Section 8 (Project Based Rental Assistance)	Section 202/8, Section 202/811 PRAC, Section 236 IRP, Section 811 PRA, SPRAC	HCV (including Project-Based vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO
Yes	Yes	Yes

Summary

PHAs/MFH Owners must consider mandatory deductions when determining a family's annual adjusted income. PHAs may also consider additional (permissive) deductions to a family's annual income if established by a written policy in the PHA's ACOP or Administrative Plan.

Subtopics

C.1 Dependent Deduction

Regulation: 24 CFR § 5.611(a)(1)

Summary: Effective January 1, 2024, the dependent deduction amount is $480. This amount will be adjusted annually (see Attachment H) and applies to a family's next annual or interim reexamination after the annual adjustment, whichever is sooner. Not later than September 1 annually, HUD will publish the CPI–W adjusted dependent deduction to the HUDUser Web site.[C1] PHAs/MFH Owners must implement the adjusted dependent deduction for all income examinations that are effective on January 1 or later.

PHA/MFH Owner Discretion: None.

C.2 Elderly/Disabled Family Deduction

Regulation: 24 CFR § 5.611(a)(2)

Summary: Effective January 1, 2024, the elderly/disabled family deduction increases from $400 to $525 and applies to a family's next interim or annual reexamination, whichever is sooner. The amount of the deduction will be adjusted annually (see Attachment H). Not later than September 1 annually, HUD will publish the CPI–W adjusted elderly/disabled family deduction to the HUDUser Web site. PHAs/MFH Owners must implement the adjusted elderly/disabled family deduction for all income examinations that are effective on January 1 or later.

[C1] https://www.huduser.gov/portal/pdrdatas_landing.html.

PHA/MFH Owner Discretion: None.

C.3 Unreimbursed Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expenses Deduction

C.3.a New Higher Threshold for Deducting Health and Medical Care Expenses and Unreimbursed Reasonable Attendant Care and Auxiliary Apparatus Expenses

Regulation: 24 CFR § 5.611(a)(3)

Summary: The final rule establishes that the sum of unreimbursed health and medical care and reasonable attendant care and auxiliary expenses that exceed 10 percent of the family's annual income can be deducted from annual income. Prior to January 1, 2024, the threshold was 3 percent of the family's annual income.

C.3.b New Definition of Unreimbursed Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expenses Deduction

Regulation: 24 CFR § 5.603

Summary: Health and medical care expenses, as defined in 24 CFR § 5.603, include costs incurred for the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed. Medical insurance premiums continue to be eligible health and medical care expenses. However, health and medical care expenses may be deducted from annual income only if they are eligible and not otherwise reimbursed and may only be deducted for elderly or disabled families.

Although HUD revised the definition of health and medical care expenses to reflect the Internal Revenue Service (IRS) general definition of medical expenses, HUD is not permitting PHAs/MFH Owners to specifically align their policies with IRS Publication 502[C2] for determining which expenses are included in HUD's mandatory deduction for health and medical care expenses. IRS Publication 502, in some instances, may instruct that certain expenses are not to be considered medical expenses that would otherwise be allowed under HUD's definition of health and medical care expenses. PHAs/MFH Owners must review each expense to determine whether it is eligible in accordance with HUD's definition of health and medical care expenses.

PHA/MFH Owner Discretion: None.

C.3.c Unreimbursed Reasonable Attendant Care and Auxiliary Apparatus Expenses

Regulation: 24 CFR § 5.611(a)(3)(ii)

[C2] Publication 502 explains the itemized deduction for medical and dental expenses used for tax purposes, including what expenses, and whose expenses, can and cannot be included in figuring the deduction.

Summary: Auxiliary apparatus items can include, for example, expenses for wheelchairs, ramps, adaptations to vehicles, guide dogs, assistance animals, or special equipment to enable a person who is blind or has low vision to read, or type or special equipment to assist a person who is deaf or hard of hearing. Some examples of attendant care expenses can include teaching a person with disabilities how to perform day-to-day tasks independently like cleaning, bathing, doing laundry, and cooking. Attendant care can be 24-hour care, or care during sporadic periods throughout the day.

In order to claim the deduction for the cost of unreimbursed reasonable attendant care and auxiliary apparatus expenses, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed. If the unreimbursed reasonable attendant care and auxiliary apparatus expense exceeds the amount earned by the person who was enabled to work, the deduction will be capped at the amount earned by that individual.

PHA/MFH Owner Discretion: None.

C.4 Hardship Exemptions for Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expenses

Regulations: 24 CFR §§ 5.611(c)(1); 5.611(c)(1)(D); and 5.611(c)(2)

Summary: As stated in C.3.a, the threshold to deduct health and medical care expenses and reasonable attendant care and auxiliary apparatus expenses has been increased from an excess of 3 to an excess of 10 percent of annual income. Concurrently with this increase, the regulations provide financial hardship exemptions for unreimbursed health and medical care expenses, and for reasonable attendant care and auxiliary apparatus expenses for eligible families. A family will benefit from this hardship exemption only if the family has eligible expenses that can be deducted in excess of 5 percent of annual income. In order to claim **unreimbursed health and medical care expenses**, the family must have a head, co-head, or spouse that is elderly or a person with a disability. In order to claim **unreimbursed reasonable attendant care and auxiliary apparatus expenses**, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed.

To initiate, extend,[C3] or conclude a hardship exemption only, PHAs/MFH Owners will process and submit a non-interim reexamination transaction as described in Attachment I (paragraph I.4) (Non-Interim Reexamination Transactions) of this notice.

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

Note: A family receiving phased-in relief may request to receive general hardship relief instead; **once a family chooses to obtain general relief, a family may no longer receive the phased-in relief.**

[C3] See paragraph C.6.e, below.

C.4.a Phased-In Relief

This section describes the phased-in relief for families affected by the statutory increase in the threshold to receive unreimbursed health and medical care and reasonable attendant care and auxiliary apparatus expense deductions from annual income.

All families who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on their most recent income review prior to January 1, 2024, will begin receiving the 24-month phased-in relief at their next annual reexamination or interim reexamination, whichever occurs first after January 1, 2024. Families who receive phased-in relief will have eligible expenses deducted that exceed 5 percent of annual income for 12 months. Twelve months after the 5 percent phase-in began, families will have eligible expenses deducted that exceed 7.5 percent of annual income for the immediately following 12 months. After the family has completed the 24 months phase-in at the lower thresholds, as described above, the family will remain at the 10 percent threshold, unless the family qualifies for relief under the general hardship relief provision.

When an eligible family's phased-in relief begins at an interim reexamination, the PHA/MFH Owner will need to process another transaction one year later to move the family along to the next phase. The transaction can be either an interim reexamination if triggered, or a non-interim reexamination transaction.

The following table demonstrates when the phased-in relief will begin and increase every 12 months during the 24-month phase-in period.

Table C1: Phased-in Relief Timing

Phased-in Relief Timing	In Excess Threshold Percentage for Families Receiving the Health and Medical Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expense Deduction as of January 1, 2024	Reexamination Type
First annual reexamination or interim reexamination, whichever occurs first on or after January 1, 2024	5 percent	Annual or Interim Reexamination
Twelve months after the 5-percent phase-in began	7.5 percent	Annual Reexamination or Interim Reexamination If no Interim Reexamination is triggered, then the PHA/MFH Owner processes with a non-interim transaction.

Twelve months after the 7.5-percent phase-in began	10 percent	Annual Reexamination or Interim Reexamination If no Interim Reexamination is triggered, then the PHA/MFH Owner processes with a non-interim reexamination transaction.

Example C1: Phased-In Relief (Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expenses)

Ms. Bell's annual reexamination is due on June 1, 2024. Her last annual reexamination was effective June 1, 2023, and she received a deduction for unreimbursed health and medical expenses. She did not have any interim reexaminations after her annual reexamination was completed. Ms. Bell's unreimbursed health and medical expenses were 8 percent of her annual income. For her annual reexamination effective June 1, 2024, the PHA determines that Ms. Bell's annual income is $10,000 and her unreimbursed health and medical expenses are $800 (8 percent of her annual income).

Although Ms. Bell's unreimbursed health and medical care expenses are not in excess of the new 10-percent threshold to receive the deduction, since she was receiving a deduction for unreimbursed health and medical expenses on January 1, 2024, Ms. Bell is automatically eligible for the deduction pursuant to the phased-in hardship exemption. The PHA/MFH Owner will apply the phased-in relief threshold to deduct the expenses that exceed 5 percent of her annual income which is $300 ($800 - $500) for this reexamination.

Since her expenses are more than 7.5 percent of her annual income, Ms. Bell will receive the benefit of the unreimbursed health and medical expense deduction until her next annual reexamination on June 1, 2025, or interim reexamination (whichever occurs first), when the threshold will be increased to 7.5 percent. Assuming her medical expenses are still $800, she will be able to deduct $50 ($800 - $750).

PHAs/MFH Owners **must** track the 24-month phase-period for each eligible family, even if a family's expenses go below the appropriate phase-in percentage, during the first or second 12-month phase-in period. The phase-in must continue for families who move with continued assistance in the HCV program or port to another PHA. The phase-in must also continue for families who move to another Public Housing unit at the same PHA, or who transfer internally to another unit within the same MFH property. The family must receive phased-in relief if they are determined to be eligible as of January 1, 2024.

The table below describes the potential phased-in relief outcomes based on a family's status in PIH and MFH programs:

Table C2: Phased-in Relief Outcomes According to Family's Status in Program for Multifamily Housing Program

Family's Status in Program	Is Family Receiving Phased-in Relief?	Outcome of Phased-in Relief	Required Documentation
Family's assistance is terminated in any program.	Yes	Phased-in relief ends upon termination. When readmitted, family's expense deduction will be	N/A. No documentation of phased-in relief is needed.

		calculated using the 10-percent threshold unless request for general relief is approved by the PHA/MFH Owner.	
Public Housing: Family transfers PH units within the same PHA. Housing Choice Voucher: Family moves with continued assistance in the HCV program with the same PHA or ports to a new PHA. MFH: Family transfers units within the same MFH property and are not treated as a new admission.	Yes	Families must continue to receive the phased-in relief. The family will receive the remaining calendar months of the percentage phase-in in their new unit.	The PHA or MFH Owner will use the existing phase-in documentation to determine the remaining calendar months of the percentage phase-in.
Family is treated as a new admission under a different property/program (e.g., family moves from one MFH property to another MFH property, the family moves from Public Housing to the HCV program, etc.).	Yes	Unless the PHA/MFH has a written policy to continue the phased-in relief upon admission, the family's expense deduction will be calculated using the 10-percent threshold unless request for general relief is approved by PHA/MFH Owner.	If the PHA/MFH Owner elects to continue the phased-in hardship relief, then the following documentation is required: Copy of forms HUD–50058 or 50059 from the family showing phased-in relief. If the forms are unavailable, then the PHA/MFH Owner may obtain self-certification from family declaring effective date of 5-percent or 7.5-percent phase-in. The PHA/MFH Owner must document in the file the reason that the forms HUD-50058 or 50059 were unavailable.
Unit in which family resides converts to PBV or PBRA funding	Yes	Families must continue to receive the phased-in relief.	Copy of forms HUD–50058 or 50059 from the family showing

under the Rental Assistance Demonstration.		The family will receive the remaining calendar months of the percentage phase-in in their new unit.	phased-in relief. If the forms are unavailable, then the PHA/MFH Owner may obtain self-certification from family declaring effective date of 5-percent or 7.5-percent phase-in. The PHA/MFH Owner must document in the file the reason that the forms HUD-50058 or 50059 were unavailable.

PHA/MFH Owner Discretion: PHAs/MFH Owners may establish a policy to continue the phased-in hardship relief for families who were eligible for relief as of January 1, 2024, and who are treated as new admissions under a different program.

C.4.b General Relief

This section describes when a family is eligible for general relief related to the health and medical care expense and reasonable attendant care and auxiliary apparatus expense deduction.

To receive general relief, a family must demonstrate that the family's unreimbursed health and medical care expenses or unreimbursed reasonable attendant care and auxiliary apparatus expenses increased, or the family's financial hardship is a result of a change in circumstances that would not otherwise trigger an interim reexamination.

Relief is available regardless of whether the family previously received an unreimbursed health and medical care expense deduction, unreimbursed reasonable attendant care and auxiliary apparatus expense deduction, are currently receiving phased-in hardship relief, or were previously eligible for either this general relief or the phased-in relief.

If a PHA/MFH Owner determines that a family is eligible for general relief, the family will receive a deduction for the sum of the eligible expenses that exceed 5 percent of annual income. The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever comes earlier. However, PHAs/MFH Owners may, pursuant to their own discretionary policy, extend the relief for one or more additional 90-day periods while the family's hardship condition continues.

Example C2: General Relief (Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expenses)

Mr. Beck's annual reexamination is due on August 1, 2024. In his last reexamination, he did not have any unreimbursed health and medical expenses and/or auxiliary and attendant care expenses. However, Mr. Beck has since been in a car accident, and he has increased eligible health and medical

expenses equal to 6 percent of his annual income. On February 15, 2024, Mr. Beck asks the PHA/MFH Owner for a hardship exemption to allow him to receive a health and medical care expense deduction, which will help him cover his rent.

The PHA/MFH Owner determines that the family Is eligible for general relief and an Interim reexamination would not have otherwise been triggered, the PHA/MFH Owners processes a non-interim change that applies a health and medical expense deduction for the eligible expenses that exceed 5 percent of annual income for 90 days. The PHA/MFH Owner may extend the relief for one or more additional 90-day periods while Mr. Beck's hardship condition continues and may extend the exemption beyond 90 days if a policy for extending hardship relief is included in the written policy for the PHA/MFH Owner.

PHA/MFH Owner Discretion: PHAs/MFH Owners must establish written policies regarding the types of circumstances that will allow a family to qualify for a financial hardship and when such deductions may be eligible for additional 90-day extensions. PHAs/MFH Owners must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

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

- The family is awaiting an eligibility determination for a federal, state, or local assistance program, such as a determination for unemployment compensation or disability benefits;
- The family's income decreased because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster; or
- Other circumstances as determined by the PHA/MFH Owner.

PHAs/MFH Owners must not conduct an interim reexamination to add, remove, or to extend a hardship exemption, unless another change experienced by the family triggers an interim reexamination under the applicable regulation or in accordance with the PHA/MFH Owner's discretionary policies on conducting interim reexaminations for adjusted income decreases that are less than ten percent. Instead, the PHA/MFH Owner will process and submit a non-interim reexamination transaction as described in Section 16.4 (Non-Interim Reexamination Transactions) of this notice.

C.5 Child-Care Expenses Deduction and Hardship Exemption to Continue Child-Care Expenses Deduction

Regulation: 24 CFR §§ 5.603 Child-Care Expenses and 5.611(d)

See also Attachment I (paragraph I.4) (Non-Interim Reexamination Transactions).

Summary: Under 24 CFR § 5.611(d), any reasonable child-care expenses necessary to enable a member of the family to be employed or to further their education are deducted from income. Reasonable child-care expenses are defined in 24 CFR § 5.603(a) and are expenses for the care of children (including foster children if the unreimbursed child-care expenses are paid from the family's annual income and not from another source, such as

a stipend from the child welfare agency), age 12 and younger, when all the following statements are true:

- The care is necessary to enable a family member to be employed or to further his or her education (e.g., work, look for work, or further their education (academic or vocational));
- The expense is not reimbursed by an agency or individual outside the household; and
- The expenses incurred to enable a family to work do not exceed the amount of employment income that is included in annual income.

A family whose eligibility for the child-care expense deduction **is ending** may receive a hardship exemption to continue receiving a child-care expense deduction in certain circumstances when the family no longer has a member that is working, looking for work, or seeking to further their education, and the deduction is necessary because the family is unable to pay their rent.

When a family requests a hardship exemption to continue receiving a child-care expense deduction that is ending, the PHA/MFH Owner must recalculate the family's adjusted income and continue the child-care deduction if the family demonstrates to the PHA's/MFH Owner's satisfaction that the family is unable to pay their rent (see Attachment C (paragraph C.6.a) (Policy for Determination of the Family's Inability to Pay Rent)) because of loss of the child-care expense deduction and the child-care expense is still necessary even though the family member is no longer working, looking for work, 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/MFH Owner, at their discretion, may extend such hardship exemptions for additional 90-day periods based on family circumstances.

To initiate, extend or conclude a hardship exemption, PHAs/MFH Owners will submit a non-interim transaction code on form HUD–50058/HUD–50059, unless there is an accompanying event that triggers an interim reexamination.

Example C3: Hardship Exemption to Continue Child-Care Expense Deduction

Ms. Branch had been paying $250 per week for her child, Violet, to attend child care, while she was employed at a local coffee shop. Ms. Branch became unemployed when the coffee shop permanently closed. Ms. Branch has plans to enroll in college in two months. Although Ms. Branch has the availability to watch Violet, the child-care center has a long waiting list, and if Ms. Branch pulls Violet out temporarily, she would likely be without reliable child care when she starts college. Continuing to pay child-care expenses while not receiving earned income has made the family unable to pay their rent portion.

The MFH Owner determined that Ms. Branch met the hardship exemption criteria, as established in the MFH Owner's written policies, and is unable to pay rent. The MFH Owner will allow Ms. Branch to continue to receive the child-care expense deduction for 60 days as Ms. Branch is anticipated to enroll in college in the next two months.

PHA/MFH Owner Discretion: PHAs/MFH Owners must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. PHAs/MFH Owners may extend hardship

exemptions for additional 90-day periods based on family circumstances as stated in their written policies.

C.6 Hardship Policy Requirements

C.6.a Policy for Determination of the Family's Inability to Pay Rent

Regulation: 24 CFR § 5.611(e)

Summary: PHAs/MFH Owners must establish policies on how they define what constitutes a hardship (i.e., when a family is unable to pay rent, triggering eligibility for a hardship exemption).

PHA/MFH Owner Discretion: PHAs/MFH Owners have discretion to establish policies for the purpose of determining eligibility for general hardship relief for the health and medical care expense deduction and for the child-care expense hardship exemption. PHAs/MFH Owners must describe these policies in their ACOPs, Administrative Plans, or Tenant Selection Plans, as applicable.

Some factors to consider when determining if the family is unable to pay rent may include determining that the rent, utility payment, and applicable expenses (child-care expenses or health and medical expenses) is more than 45 percent (for example) of the family's adjusted income, or verifying whether the family has experienced unanticipated expenses, such as large medical bills, that have affected their ability to pay their rent. PHA/MFH Owners may use different percentage thresholds or methods for determining a family's inability to pay rent; the examples provided in this paragraph are for consideration purposes.

C.6.b Family Notification of Hardship Exemption

Regulation: 24 CFR § 5.611(e)(2)

Summary: PHAs/MFH Owners must promptly notify families in writing of the change in the determination of adjusted income and the family's rent resulting from the application of the hardship exemption. The written notice must also 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/MFH Owner if the circumstances that made the family eligible for relief are no longer applicable. The notice must also state that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption. PHAs/MFH Owners must provide families 30 days' notice of any increase in rent.

PHAs/MFH Owners are encouraged to communicate the availability of hardship exemptions and how to request a hardship to all applicants and families prior to January 1, 2024.

PHA/MFH Owner Discretion: None.

C.6.c Family Notification of Hardship Exemption Denial

PHAs/MFH Owners must promptly notify families in writing if they are denied either an initial hardship exemption or an additional 90-day extension of the exemption. The notification must specifically state the reason for the denial.

C.6.d Family Notification of Hardship Exemption Termination

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

Example C4: Termination of Hardship Exemption

The Olivera family is currently receiving a hardship exemption for child-care expenses. The family received an interim reexamination to decrease their earned income when an adult family member went on unpaid medical leave. The family is unable to pay rent during this time but still needs child care while the adult family member is receiving physical therapy. The family subsequently reports to the PHA/MFH Owner that the adult family member will resume employment in 3 weeks on March 23, at which point the family will no longer need the child-care hardship exemption. When the hardship exemption ends, the PHA/MFH Owner will process an interim reexamination to add the family's earned income and restart the non-hardship child-care expense deduction. The PHA/MFH Owner has a policy to consider earned income increases following an interim reexamination due to a decrease in income (see Attachment I (paragraph I.2)).

The PHA/MFH Owner must notify the family in writing that the hardship exemption will be terminated effective March 23 and provide the family with 30 days' notice of any rent increase. The family's rent increase will be effective on May 1.

C.6.e Extension of Hardship Exemption for Additional 90-Day Period(s)

PHAs/MFH Owners may at their discretion extend hardship exemptions for additional 90-day periods if the hardship continues pursuant to the PHA/MFH Owner's hardship policies. This provision applies to families receiving hardship exemptions for the child-care expenses deduction and general hardship relief for health and medical care expenses and reasonable attendant care and auxiliary apparatus expenses.

PHA/MFH Owners may extend the hardship relief for as many 90-day periods as the hardship continues to affect the family. Policies for extending hardship relief for additional 90-day periods must be established in PHAs' Administrative Plans or ACOPs, and in MFH Owners' Tenant Selection Plans.

PHAs/MFH Owners must obtain third-party verification of the family's inability to pay rent or must document in the file the reason that third-party verification was not available. PHAs/MFH Owners must attempt to obtain third-party verification prior to the end of the 90-day period.

C.7 Additional (Permissive) Deductions

Regulation: 24 CFR § 5.611(b)(1)

Summary: A PHA may, but is not required to, establish an additional deduction or deductions from a family's annual income. These deductions are also known as "permissive deductions." Note that the public housing Operating Fund formula is not revised to account for any decrease in PHA revenue attributable to implementing permissive deductions. Likewise, the subsidy costs attributable to implementing permissive deductions will not be taken into consideration in determining the PHA's HCV renewal funding or moderate rehabilitation funding. PHAs that adopt permissive

deductions are required to incorporate these policies as part of the Administrative Plan or ACOP, as applicable.

MFH Owners are not permitted to adopt permissive deductions.

PHAs can respond to community needs by establishing a wide range of permissive deductions, including permissive deductions to provide incentives for families to work. Program regulations do not specify what types of permissive deductions are allowable. PHAs operating the Public Housing program have previously adopted permissive deductions that incentivize or encourage self-sufficiency and economic mobility.

As an example, a PHA may adopt an earned income deduction based on the following:

- The amount earned by certain members of the family (e.g., all income earned by elderly family members, etc.);
- The amount earned by families having certain characteristics (e.g., all income earned by family members employed by nonprofit organizations, etc.);
- the amount received by families or members from guaranteed income programs offered by select states and local governments;
- The amount earned by families or members during a certain time period or from certain sources (e.g., all income earned by full-time dependent students between June-August, all income earned by family members employed by nonprofit organizations, etc.)

PHAs are still subject to federal nondiscrimination requirements, including the obligation to provide reasonable accommodations that may be necessary for households with family members with disabilities.

C.7.a Additional (Permissive) Deductions: Public Housing Only

Regulation: 24 CFR § 5.611(b)(1)(i)

Summary: PHAs may continue to adopt additional deductions from annual income in the Public Housing program. Permissive deductions may be used to incentivize or encourage self-sufficiency and economic mobility. **A PHA that adopts such deductions will not be eligible for an increase in Capital Fund and Operating Fund formula grants based on the application of such deductions**, so the financial impact of implementing permissive deductions must be carefully evaluated. PHAs may adopt permissive deductions for Public Housing only if they have established a written policy for such deductions.

PHAs must put the total dollar amounts of any permissible deductions in column 8d and line 8e of the form HUD-50058.

PHA/MFH Owner Discretion: PHAs are not required to adopt permissive deductions, but any PHA establishing permissive deductions in the Public Housing program must create written policies in the PHA's ACOP. MFH Owners are not permitted to adopt permissive deductions.

C.7.b Additional (Permissive) Deductions: HCV and Moderate Rehabilitation Only

Regulation: 24 CFR § 5.611(b)(1)(ii)

Summary: When deciding whether to adopt a permissive deduction for the HCV program, the PHA will need to review its Housing Assistance Payments (HAP) funds utilization and projected leasing closely to ensure that enough HAP is available to support the number of families currently or planned to be leased. The costs attributable to permissive deductions will not be taken into consideration in determining the PHA's HCV renewal funding or Moderate Rehabilitation/SRO funding. A PHA must have sufficient funding to cover the increased HAP cost of the deductions.

For the HCV program, PHAs will be required to report any HAP spent on permissive deductions into VMS monthly. Additional guidance for reporting HAP spent on permissive deductions in VMS will be provided in the VMS Manual.

For Moderate Rehabilitation programs, PHAs will be required to report the additional subsidy cost as part of the Moderate Rehabilitation Year End Settlement they are currently required to submit to HUD.

Since permissive deductions will be excluded from the renewal calculation, PHAs may use outside funding to cover the cost. For example, the PHA may receive non-federal funding to cover the cost of a particular permissive deduction. This could also apply for research studies where the research director asks the PHA to exclude stipends or basic/guaranteed income amounts received during the study period, and the research study provides funding to the PHA to cover the cost.

PHA/MFH Owner Discretion: PHAs are not required to adopt permissive deductions, but any PHA establishing permissive deductions in the HCV or Moderate Rehabilitation/SRO programs must create written policies in the PHA's HCV Administrative Plans.

MFH Owners are not permitted to adopt permissive deductions.

ATTACHMENT D: TOPIC: APPLICABLE FAIR HOUSING AND CIVIL RIGHTS REQUIREMENTS

Regulations

24 CFR §§ 5.105(a), 8.6, 982.53; 28 CFR §§ 35.160 and 36.303

Applicable Programs

HUD Multifamily Housing	HUD Multifamily Housing	Public and Indian Housing
Section 8 (Project Based Rental Assistance)	Section 202/8, Section 202/811 PRAC, Section 236 IRP, Section 811 PRA, SPRAC	HCV (including Project-Based vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO
Yes	Yes	Yes

Summary

While HOTMA did not revise existing Fair Housing or Civil Rights requirements, PHAs/MFH Owners are reminded to follow all applicable nondiscrimination and equal opportunity requirements at 24 CFR § 5.105(a) and 24 CFR § 982.53, including but not limited to:

- the Fair Housing Act;
- Section 504 of the Rehabilitation Act of 1973;
- Title VI of the Civil Rights Act of 1964;
- the Age Discrimination Act;
- HUD's Equal Access Rule; and
- Title II of the Americans with Disabilities Act of 1990.

These requirements prohibit discrimination on the basis of race, color, religion, sex (including gender identity and sexual orientation), familial status, national origin, disability, age, and marital status. PHAs/MFH Owners must also comply with Title III of the Americans with Disabilities Act of 1990, as applicable (see 28 CFR part 36).

When an assisted household includes a person with disabilities, a reasonable accommodation may be necessary. A reasonable accommodation is a change, exception, or adjustment to rules, policies, practices, or services that may be necessary in order to enable an applicant or resident with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common areas, or to participate in or access programs and activities. Under Section 504, reasonable accommodations may also include a structural change to a unit, or to a public or common use area. In addition, the PHAs/MFH Owners must provide effective communication to persons with disabilities, including those with vision, hearing, and other communication-related disabilities, which includes ensuring that information is provided in appropriate accessible formats as needed (e.g., Braille, audio, large type, assistive listening devices, sign language interpreters, accessible Web sites; and other accessible electronic communications). See 24 CFR § 8.6.

PHAs/MFH Owners must also take reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP). LEP guidance and LEP information is available here: https://www.federalregister.gov/documents/2007/01/22/07-217/final-guidance-tofederalfinancial-assistance-recipients-regarding-title-vi-prohibition-against.

In addition, PHAs/MFH Owners must comply with the Violence Against Women Act (VAWA), HUD's implementing VAWA regulation at 24 CFR part 5 – subpart L, and applicable program regulations.

ATTACHMENT E: TOPIC: HOUSEHOLD COMPOSITION

Regulations

24 CFR §§ 5.403; 5.603; 5.609; and 891.105

Applicable Programs

HUD Multifamily Housing	HUD Multifamily Housing	Public and Indian Housing
Section 8 (Project Based Rental Assistance)	Section 202/811 PRAC, Section 236 IRP, Section 811 PRA	HCV (including Project-Based vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO
Yes	Yes[E1]	Yes

Summary

See subtopics.

Subtopics

E.1 Definition of Family

Regulation: 24 CFR § 5.403

Summary: The final rule revises the definition of family to also include a single person who:

- Is an otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age;
- Has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)); and
- Is homeless or is at risk of becoming homeless at age 16 or older.

The definition of "family" in the final rule incorporates revisions made to the 1937 Act by the Fostering Stable Housing Opportunities provisions of the Consolidated Appropriations Act, 2021, which expands the definition of "single persons." Due to the modification of the statute prior to this final rule, HUD is making a conforming change to 24 CFR § 5.403 to align with the new statutory language.

PHA/MFH Owner Discretion: None.

E.2 New Definitions of Foster Adult and Foster Child

Regulation: 24 CFR § 5.603

Summary: The final rule establishes definitions for "foster adult" and "foster child." A foster adult is defined as a member of the household who is 18 years or older and meets

[E1] SPRACs have a program-specific definition of Family found in paragraph 2.3 (Families to be Housed) of the SPRAC II (form HUD–93742a).

the definition of a foster adult under state law. State-level agencies define who is considered a foster adult/child, so the classification may vary from state to state.

In general, a foster adult 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.

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.

Foster adults/children are not considered **family members** and must not be included in calculations of income for eligibility and rent determination purposes. However, foster adults/children are considered **household members** and must be included when determining unit size or subsidy standards based on established policies.

The definition of "dependent" under § 5.603 was revised to explicitly **exclude** foster children and foster adults. PHAs/MFH Owners may not provide a dependent deduction under § 5.611(a) for a foster child or foster adult. Consistent with the determination that foster adults/children are not family members, income earned by foster adults/children, payments received for the care of foster adults/children, and expenses incurred related to foster adults/children are not considered to be family income or family expenses used in the determination of annual income. Reasonable unreimbursed child-care expenses (as defined in § 5.603) for foster children under 13 years of age may be deducted from annual income if those expenses are necessary to enable a member of the family to work, look for work, or to further their education.

Families may be eligible to continue to receive the child-care expense deduction, pursuant to a hardship exemption, when the unreimbursed child-care expense is for the care of a foster child under the age of 13, but only if the unreimbursed child-care expense for the care of the foster child is paid from the family's annual income (and not another source, such as a stipend from a child welfare agency). See Attachment C (paragraph C.5) (Child-Care Expenses Deduction and Hardship Exemption to Continue Child-Care Expenses Deduction) of this notice.

When a member of an assisted family is temporarily placed in foster care (as confirmed by the state child welfare agency), the member is still counted as a family member in the unit from which they were removed. This means that a foster child or foster adult could be considered an assisted family member in one household while also being a foster child or adult in another household and receiving consideration in both families' voucher size and/or unit size.

PHA/MFH Owner Discretion: None.

E.3 Alignment of Family Member Definition Across Programs

Regulations: 24 CFR §§ 5.403; 5.603; and 5.609

Summary: Since approximately 2008, MFH programs have treated foster children and foster adults as family members. Effective with the final rule, foster children and foster adults will be treated as household members in MFH programs. This policy alignment is

not a direct result of HOTMA but serves rather to conform MFH programs with the existing treatment of foster children/adults across other HUD programs.

HUD reminds PHAs and MFH Owners that the income and net family assets of household members are excluded when determining initial eligibility or eligibility for continued assistance; however, household members are considered for purposes of unit size and subsidy standards. For example, a live-in aide must be considered for bedroom size requirements for a unit, but their income and expenses would not be included for the purposes of income eligibility and assistance levels. Household members do not qualify for expenses or deductions, except that reasonable unreimbursed child-care expenses may be deducted for foster children under the age of 13 if it enables a member of the family to work, look for work, or go to school.

PHA/MFH Owner Discretion: None.

ATTACHMENT F: TOPIC: INCOME

Regulations

24 CFR §§ 5.100; 5.603; 5.603(b); 5.603(b)(3) – (b)(4); 5.609; 5.609(a)(1) – (a)(2); 5.618; 882.515(a); 882.808(i)(1); 891.105; 960.259(c)(2); and 982.516(a)(3)

Applicable Programs

HUD Multifamily Housing	HUD Multifamily Housing	Public and Indian Housing
Section 8 (Project Based Rental Assistance)	Section 202/8, Section 202/811 PRAC, Section 236 IRP, Section 811 PRA, SPRAC	HCV (including Project-Based vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO
Yes	Yes	Yes

Summary

See subtopics.

Subtopics

F.1 Annual Income

Regulations: 24 CFR §§ 5.609(a)(1)–(a)(2); and 891.105

Summary: Annual income includes all amounts received from all sources by each member of the family who is 18 years of age or older, the head of household, or spouse of the head of household, in addition to unearned income received by or on behalf of each dependent who is under 18 years of age. Annual income does not include amounts specifically excluded in paragraph (b) of 24 CFR § 5.609. See Attachment G (Income Exclusions). All amounts received by the head of household, co-head, or spouse, including the income of a day laborer, independent contractor, and seasonal worker (see paragraphs F.2.a, F.2.b, and F.2.c, below) are included in annual income regardless of age, unless otherwise excluded in paragraph (b) of 24 CFR § 5.609.

Note: Annual income includes "all amounts received," not the amount that a family **may be** legally entitled to receive but which they do not receive. For example, a family's child-support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders. A copy of a court order or other written payment agreement alone may not be sufficient verification of amounts received by a family.

Annual income also includes all actual anticipated income from assets even if the asset is excluded from net family assets but the income from the asset is not otherwise excluded. Imputed returns on net family assets are included in annual income only when net family assets exceed $50,000 (a figure that is annually adjusted for inflation) and actual asset income cannot be calculated for all assets (see F.6.b, below, for a discussion of scenarios where income can be calculated for some but not all assets). PHAs/MFH Owners will not impute income from assets if the total value of net family assets is equal to or less than $50,000 (as adjusted by inflation). See paragraph F.4.a (Determining Net Family Assets),

below, for the definition of net family assets and paragraph F.6 (Actual and Imputed Income from Assets).

PHA/MFH Owner Discretion: None.

F.2 Earned Income

Regulation: 24 CFR § 5.100

Summary: Earned Income is defined as income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare assistance, Social Security, and other governmental subsidies/benefits), or any cash or in-kind benefits.

PHA/MFH Owner Discretion: None.

F.2.a Definition of Day Laborer

Regulation: 24 CFR § 5.603(b)

Summary: 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.

Income earned as a day laborer is not considered nonrecurring income under 24 CFR § 5.609(b)(24) (see Attachment G (paragraph G.1) (Nonrecurring Income) of this notice) and must be included, unless specifically excluded in 24 CFR § 5.609(b) (e.g., earnings of full-time students in excess of the dependent deduction (24 CFR §§ 5.609(b)(3), (b)(14), etc.).

PHA/MFH Owner Discretion: None.

F.2.b Definition of Independent Contractor

Regulation: 24 CFR § 5.603(b)

Summary: An independent contractor is 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 they have the right to control or direct only the conduct of the work. For example, while instructions and route information are generally provided, third-party delivery and transportation service providers are considered independent contractors unless state law dictates otherwise. In addition, individuals considered "gig workers," such as babysitters, landscapers, rideshare drivers, and house cleaners, typically fall into the category of independent contractor.

Income earned as an independent contractor is not considered nonrecurring income (see Attachment G (paragraph G.1) (Nonrecurring Income)) and must be included unless specifically excluded in 24 CFR § 5.609(b) (e.g., 24 CFR §§ 5.609(b)(3), (b)(14), etc.).

PHA/MFH Owner Discretion: None.

F.2.c Definition of Seasonal Worker

Regulation: 24 CFR § 5.603(b)

Summary: A seasonal worker is defined as an individual who is: 1) hired into a short-term position (e.g., for which the customary employment period for the position is 6 months or fewer); and 2) 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 employer or industry.

Some examples of seasonal work include employment limited to holidays or agricultural seasons. Seasonal work may include but is not limited to employment as a lifeguard, ballpark vendor, or snowplow driver.

Income earned as a seasonal worker is not considered nonrecurring income (see Attachment G (paragraph G.1) (Nonrecurring Income)) and must be included unless specifically excluded in 24 CFR § 5.609(b) (e.g., § 5.609(b)(14), etc.).

PHA/MFH Owner Discretion: None.

F.3 Definition of Unearned Income

Regulation: 24 CFR § 5.100

Summary: Unearned income means any annual income, as calculated under 24 CFR § 5.609, that is not earned income.

PHA/MFH Owner Discretion: None.

F.4 Assets

Asset requirements in 24 CFR §§ 5.603 and 5.609 apply to HCV (including Project-Based Vouchers and all special purpose vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO, and MFH programs.

F.4.a Determining Net Family Assets

Regulations: 24 CFR §§ 5.100 and 5.603

Summary: Net family assets are defined as the net cash value of **all assets owned by the family**, after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of investment, except as excluded (see Attachment F (paragraph F.4.b) (Exclusions from Net Family Assets) of this notice).

Assets with negative equity. The cash value of real property[F1] or other assets with negative equity would be considered $0 for the purposes of calculating net family assets. Negative equity in real property or other investments does not prohibit the family from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

[F1] Real property, as used in 24 CFR Part 5, has the same meaning as that provided under the state law in which the real property is located.

Assets disposed of for less than fair market value. In determining the value of net family assets, PHAs/MFH Owners 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,[F2] 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.

For example, if a family gave away a home with a net value of $80,000, the value of the home must be included in the calculation of net family assets for two years following the transfer of property. If a family sold a home for less than fair market value, the difference between the value and the amount for which they sold it would be included in net family assets for two years following the transfer of property. For example, if a family sold a property with a fair market value of $80,000 to a friend for $20,000, then the difference in value ($60,000) minus the cost to dispose of the property ($10,000), which is in this example totals $50,000, would be counted in net family assets for two years from the date of the property's transfer to the other party.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms.

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

Jointly owned assets. For assets jointly owned by the family and one or more individuals outside of the assisted family, PHAs/MFH Owners must include the total value of the asset in the calculation of net family assets, unless the asset is otherwise excluded (see F.4.b of this notice), or unless the assisted family can demonstrate that the asset is inaccessible to them, or that they cannot dispose of any portion of the asset without the consent of another owner who refuses to comply. If the family demonstrates that they can only access a portion of an asset, then only that portion's value shall be included in the calculation of net family assets for the family. Likewise, any income from a jointly owned asset must be included in annual income, unless that income is specifically excluded (see Attachment G), or unless the family demonstrates that they do not have access to

[F2] A disposition in trust is when the family creates a trust for the benefit of someone outside of the assisted family. It would not be considered an asset disposed of for less than fair market value if the family establishes a nonrevocable trust for the benefit of someone in the assisted family.

the income from that asset, or that they only have access to a portion of the income from that asset.

If an individual is a beneficiary who is entitled to access the account's funds only upon the death of the account's owner, and may not otherwise withdraw funds from an account, then the account is not an asset to the assisted family, and the family should provide proper documentation demonstrating that they are only a beneficiary on the account.

PHA/MFH Owner Discretion: None.

F.4.b Exclusions from Net Family Assets

Regulations: 24 CFR § 5.603(b)(3)–(b)(4)

Required exclusions from net family assets include the following:

- The value of necessary items of personal property. (See paragraph F.4.c (Necessary and Non-Necessary Personal Property) of this notice.)
- The value of all non-necessary items of personal property with a total combined value of $50,000 or less, annually adjusted for inflation. (See paragraph F.4.c (Necessary and Non-Necessary Personal Property) of this notice.)
- The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including Individual Retirement Accounts (IRAs), employer retirement plans (e.g., 401(k), 403(b)), and retirement plans for self-employed individuals.
- 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. Examples of this include but are not limited to: co-ownership situations (including situations where one owner is a victim of domestic violence), where one party cannot unilaterally sell the real property; property that is tied up in litigation; inherited property in dispute.
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law that resulted in a member of the family being a person with disabilities.
- The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986; the value of any qualified tuition program under section 529 of such Code; and the amounts in, contributions to, and distributions from any Achieving a Better Life Experience (ABLE) account authorized under section 529A of such code.
- The value of any "baby bond" account created, authorized, or funded by the federal, state, or local government (money held in trust by the government for children until they are adults).
- Interests in Indian trust land.
- Equity in a manufactured home where the family receives assistance under 24 CFR Part 982.

- Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR Part 982.
- Family Self-Sufficiency accounts.
- Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family.
- The full amount of assets held in an irrevocable trust. (See paragraph F.4.d (Trusts) of this notice.)
- The full amount of assets held in a revocable trust where a member of the family is the beneficiary, but the grantor/owner and trustee of the trust is not a member of the participant family or household. (See paragraph F.4.d (Trusts) of this notice)

PHA/MFH Owner Discretion: PHAs/MFH Owners may need to revise application forms, interview guides and individual verification forms to ensure that they are gathering adequate information to make appropriate asset exclusion determinations.

F.4.c Necessary and Non-Necessary Personal Property

Regulation: 24 CFR § 5.603

Summary: Necessary personal property is excluded from net family assets. Non-necessary personal property with a combined value greater than $50,000, as adjusted by inflation, is considered part of net family assets. When the combined value of all non-necessary personal property does not exceed $50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets.

All assets are categorized as either real property (e.g., land, a home) or personal property. Personal property includes tangible items, like boats, as well as intangible items, like bank accounts. For example, a family could have non-necessary personal property with a combined value that does not exceed $50,000 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 unless the real property meets a different exclusion under 24 CFR § 5.603.

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. Necessary personal property includes more than merely items that are indispensable to the bare existence of the family. It may include personal effects (such as items that are ordinarily worn or utilized by the individual), items that are convenient or useful to a reasonable existence, and items that support and facilitate daily life within the family's home. Necessary personal property also includes items that assist a household member with a disability, including any items related to disability-related needs, or that may be required for a reasonable accommodation for a person with a disability. Necessary personal property does not include bank accounts, other financial investments, or luxury items.

Determining what is a necessary item of personal property is a highly fact-specific determination, and therefore it is incumbent on PHAs/MFH Owners to gather enough facts to qualify whether an asset is necessary or non-necessary personal property.

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

The following table lists examples of necessary and non-necessary personal property. **This is not an exhaustive list.**

Table F1: Examples of Necessary and Non-Necessary Personal Property

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

Example F1: Necessary and Non-Necessary Personal Property

The Cross family owns three items of personal property. The family has a checking account valued at $5,000, a $15,000 recreational boat, and Ms. Cross's $3,000 engagement ring.

The checking account and recreational boat are both considered non-necessary personal property. They are worth a combined $20,000. The engagement ring is considered necessary personal property, because it is jewelry used in a religious/cultural celebration or ceremony. Since the total value of non-necessary personal property is less than $50,000, the family's non-necessary personal property will not be considered when calculating the Cross family's net family assets.

Cross Family's Personal Property

Item	Estimated Value	Type	Amount to be considered as non-necessary personal property
Checking account	$5,000	Non-necessary Personal Property	$5,000
Ring (engagement ring)	$3,000	Necessary Personal Property	$0
Recreational boat	$15,000	Non-necessary Personal Property	$15,000
		Total Non-necessary Personal Property:	$20,000

Calculation of Cross Family's Total Net Assets

Asset	Total to be Considered in Net Family Assets
Non-necessary Personal Property	$0
Real Property	$0
Total:	$0

The Cross family's total net family assets are $0.

PHA/MFH Owner Discretion: None.

F.4.d Trusts

Regulations: 24 CFR §§ 5.603 and 5.609

Summary: Whether the value of a trust counts as a net family asset and whether distributions from the trust count as annual income to the family depends on the following three factors:

- Whether the trust is under the control of the family;
- Whether distributions are made from the trust's principal; and

- The purpose of the distribution, if the distribution is made from income earned on the trust's principal.

F.4.d.i Trusts as Net Family Assets

The value of irrevocable trusts and revocable trusts that are not under the control of the family are both excluded from net family assets.

The distinguishing feature of a revocable trust is that the grantor can terminate and/or amend the trust at any time for any reason before his or her death. In circumstances 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 beneficiary does not "own" the revocable trust, and the value of the trust is excluded from net family assets. For the revocable trust to be considered excluded from net family assets, no family or household member may be the account's trustee.

A revocable trust that is under the control of the family or household (e.g., the grantor is a member of the assisted family or household) **is** included in net family assets, and, therefore, income earned on the trust is included in the family's income from assets. This also means that PHAs/MFH Owners will calculate imputed income on the revocable trust if net family assets are more than $50,000, as adjusted by inflation, and actual income from the trust cannot be calculated (e.g., if the trust is comprised of farmland that is not in use).

F.4.d.ii Actual Income from a Trust

If the PHA/MFH Owner determines that the 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.

Where an irrevocable trust is excluded from net family assets, the PHA/MFH Owner must not consider actual income earned by the trust (e.g., interest earned, rental income if property is held in the trust) for so long as the income from the trust is not distributed.

F.4.d.iii Trust Distributions and Annual Income

- **Revocable trust considered part of net family assets:** If the value of the trust is considered part of the family's net assets, then distributions from the trust are not considered income to the family.
- **Revocable or irrevocable trust not considered part of net family assets:** If the value of the trust is not considered part of the family's net assets, then distributions from the trust are treated as follows:
  - All distributions from the trust's principal are excluded from income.
  - Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's

principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

Table F2 below is a tool to assist PHAs/MFH Owners in determining whether a trust should be considered a net family asset and/or whether a trust's earned interest or distributions are considered income to the family.

Table F2: Annual Income/Net Family Assets Scenarios based on Trust Type

Trust Type	Is the trust considered a net family asset?	Is the actual interest earned by the trust considered family income?	Are distributions of trust principal considered family income?	Are distributions of interest earned on the trust principal considered family income?
Revocable Grantor is not part of the assisted family or household (and the family or household is not otherwise in control of the trust)	No	No	No	Yes, unless the distributions are used to pay for the health and medical expenses for a minor
Revocable Grantor is part of the assisted family or household (or the trust is otherwise under the control of the family or household)	Yes	Yes	No	No
Irrevocable (Typically, Special Needs Trusts are irrevocable.)	No	No	No	Yes, unless the distributions are used to pay for the health and medical expenses for a minor

PHAs/MFH Owners must be careful to distinguish between distributions of principal and distributions of earnings on a trust's principal when verifying family income from irrevocable trusts and revocable trusts where the grantor is not part of the assisted family or household, so as not to unintentionally include distributions of principal that are not considered income.

Note: The policy implemented under HOTMA is a change from the previous policies of both PIH and MFH. Previously, PIH considered all distributions of principal or income earned on the principal as income unless the distribution

qualified as an income exclusion. In determining whether a distribution from a trust should be counted as income to the beneficiary, MFH considered how the trust was funded, whether the distribution was from trust income or principal, and whether any distribution from trust income met an existing income exclusion. The policy under HOTMA aligns the policies of MFH and PIH and clarifies that the term "income" means "trust income" and not **any** distribution from the trust to the beneficiary.

PHA/MFH Owner Discretion: None.

F.4.e Federal Tax Refunds or Refundable Tax Credits

Regulation: 24 CFR § 5.603

Summary: 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.

Taxpayers have several options for receiving their tax refunds: via paper check or direct deposit into a checking or savings account; via TreasuryDirect to buy savings bonds; via direct deposit into a Traditional, Roth, or Simplified Employee Pension Plan-IRA; or via purchase of savings bonds, a Health Savings Account, an Archer Medical Savings Account, or a Coverdell Education Savings Account. Refundable tax credits, such as the Earned Income Tax Credit (EITC), are determined as part of an overall tax return submission to the Internal Revenue Service (IRS). Taxpayers receive one federal tax refund reflecting the taxpayer's tax liability, if negative, including any applicable refundable tax credits.

At the time of an annual or interim reexamination of income, if the federal tax refund was received during the 12 months preceding the effective date of the reexamination, then the amount of the refund that was received by the family is subtracted from the total value of the account in which the federal tax refund or refundable tax credits were deposited. When the subtraction results in a negative number, then the balance of the asset is considered $0. If the tax refund or refundable tax credit is deposited into another excluded asset, such as a retirement account or a Coverdell Education Savings Account, then the deposit will have no effect on the balance of the asset (i.e., there is no need for the PHA/MFH Owner to subtract the amount of the deposit from the value of the excluded asset).

Note: Only the amount that the family receives is excluded from net family assets. For example, if a family anticipates a $500 federal tax refund but only receives $250, then only $250 will be excluded from the net family assets because that is the amount that the family received.

PHAs/MFH Owners are not required to verify the amount of the family's federal tax refund or refundable tax credit(s) if the family's net assets are equal to or below $50,000 (adjusted annually for inflation), even in years when full verification of assets is required or if the PHA/MFH owner does not accept self-certification of assets. PHAs/MFH Owner must verify the amount of the family's federal tax refund or refundable tax credits if the family's net assets are greater than $50,000.

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 under 24 CFR § 5.609(b).

Example F2: Federal Tax Refund Excluded from Net Family Assets

The Rodriguez family received a $4,500 federal tax refund on 3/1/2024 and deposited the refund into their checking account. At their next annual reexamination with an effective date of 8/1/2024, the PHA/MFH Owner asks the family about any assets they own, the anticipated income from the assets, and if they received a federal tax refund or refundable tax credits in the past 12 months and where they deposited the refund/refundable tax credits or if they purchased savings bonds with the refund.

The Rodriguez family explain that they received a $4,500 refund and that they deposited the refund into their checking account, which has a balance of $10,000. The Rodriguez family reports that they have actual income of $100 from the checking account this year. The family owns no other assets. In determining the total value of net family assets, the PHA/MFH Owner subtracts $4,500 from the overall $10,000 balance, for a total countable asset of $5,500. The full value of actual income is included as income, because actual income is always included even on excluded assets.

F.4.f Net Family Assets Examples

In some cases, amounts that are excluded from net family assets may be included as annual income when disbursements are made to a family from an asset. In other cases, amounts are excluded from annual income as a lump-sum addition to net family assets, but those funds are then considered a net family asset if held in an account or other investment that is considered part of net family assets. These concepts are illustrated in the three examples below.

Example F3: Retirement Accounts

Background: The value of any account under a retirement plan recognized by the Internal Revenue Service, including IRAs, employer retirement plans, and retirement plans for self-employed individuals, is not considered in determining net family assets. Any income earned on the funds while stored in such a retirement account is not considered actual income from assets. However, any distribution of periodic payments from the retirement account is considered income at the time it is received by the family (§ 5.609(b)(26)).

Scenario

Prior quarter ending balance of 401(k) account: $157,500

Prior quarter yield: 5 percent ($7,500)

Distributions made to family: $12,000 in prior year, same amount is anticipated to be received this year.

Result: In this example, the family's income reexamination will not include the 401(k), because the value of the 401(k) and the earnings will be considered neither net family assets nor income to the family; however, the family's income reexamination will include the $12,000 in distributions (unearned income) which has been paid from the retirement account in increments of $1,000 monthly to the family.

Example F4: Civil Rights Settlements

Background: A civil rights settlement, regardless of how the settlement is paid (lump sum or several distributions), is excluded from annual income; however, the amounts would be considered part of net family assets, if held in a savings account, revocable trust, or in some other asset that is not excluded from the definition of net family assets.
Scenario Jessica receives a civil rights settlement in the amount of $20,000, because she was not provided a reasonable accommodation. Jessica deposits the $20,000 into her savings account, which already contains $5,000, and earns 0.5 percent interest annually. Total civil rights settlement received: $20,000 (excluded from income under § 5.609(b)(25)) Value of savings account: $25,000 (which includes the $20,000 settlement) Actual income earned from savings account: $25,000 x 0.005 = $125 included in annual income
Result: In this example, the family's income reexamination will not include the amount received from the civil rights settlement, because the funds are not considered income under § 5.609(b)(25). However, the value of the savings account where the settlement was deposited will be used in the calculation of net family assets, and the actual income earned from interest accrual (as self-certified by the family) will be included in the family's annual income.

Example F5: Life Insurance

Background: The cash value of life insurance policies that are available to the participant before death are included in net family assets (e.g., the surrender value of a whole life policy or a universal life policy). Net family assets will not include the value of term life insurance, which has no cash value to the individual before death. **Scenario A:** The Johnson family has a whole life insurance policy with a face value of $100,000 and a surrender value of $30,000. Net family assets will include $30,000 for the life insurance policy. The Johnson's family policy also pays an annual dividend of $100. This will be included as actual income. **Scenario B:** The Dexter family has a term life insurance policy with a face value of $100,000 payable upon death. The total amount included in the family's net family assets for this insurance policy will be $0.

F.5 Passbook Rate

Regulation: 24 CFR § 5.609(a)(2)

Summary: HUD will annually publish a passbook rate based on the Federal Deposit Insurance Corporation (FDIC) National Deposit Rate for savings accounts, which is an average of national savings rates published on a monthly basis. PHAs/MFH Owners must use the HUD-published passbook rate when calculating imputed asset income for net family assets that exceed $50,000 (a figure that is annually adjusted for inflation). The HUD-published passbook rate will be posted to a dataset on the HUDUser Web site, alongside annual inflationary adjustments (see Attachment H).

To determine the passbook rate for the next calendar year, HUD will average the most recent three months of FDIC updates to the National Deposit Rate for savings accounts, rounded to the nearest hundredth of 1 percent. In order to ensure updated passbook rates may be used for reexaminations with an effective date of January 1, HUD will calculate

the update in July each year, using FDIC data from April, May, and June. for publication on HUDUser not later than September 1.

For 2024, the passbook rate will be 0.40 percent. Below is an explanation of how the passbook rate was calculated for 2024. For reexaminations with effective dates before January 1, 2024, PHAs may continue to set their own passbook rates, and MFH Owners must continue to use the 0.06 percent passbook rate.

Table F3: Calculation of Passbook Rate for 2024

FDIC Monthly Update, Date of Publication	National Deposit Rate, Savings Accounts
4/17/2023	0.39 percent
5/15/2023	0.40 percent
6/20/2023	0.42 percent
HUD Passbook Rate (average of 3 months of FDIC National Deposit Rates)	**0.40 percent**

PHA/MFH Owner Discretion: None. PHAs were previously permitted to set their own passbook rates within a HUD-published range; effective with the final rule, PHAs/MFH Owners will be required to use the HUD-published passbook rate. The final rule supersedes Notice H 2016–01 (Passbook Saving Rate Effective February 1, 2016).

F.6 Actual and Imputed Income from Assets

Regulation: 24 CFR § 5.609(a)(2)

Summary: Actual income and imputed income are treated as described below.

F.6.a Actual Income

Actual income from assets is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded by 24 CFR § 5.609(b).

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

The following examples illustrate how to calculate actual income from assets.

Example F6: Actual Asset Income from an Asset Excluded from Net Family Assets

Background: Eugene Park owns a checking account with $3,500 that earns 0 percent interest. He also has a savings account with a balance of $10,000 for which he expects to earn $300 in annual interest. Mr. Park has no other assets. Because those assets are classified as non-necessary personal property, and their combined value of $13,500 does not exceed $50,000, the combined value of all non-necessary personal property is excluded from the calculation of net family assets (see paragraph

F.4.c (Necessary and Non-Necessary Personal Property) of this notice). The total value of Eugene Park's net family assets is $0, and $300 is included in annual income.
Scenario Total value of assets: $3,500 + $10,000 = $13,500 Net family assets: $0.00 (total value of assets is less than $50,000, therefore the value is excluded from net family assets)
Result: Actual income from assets (must be included in the calculation of annual income for Eugene Park): $300 ($0 from checking account + $300 from savings account)

Example F7: Calculating Net Family Assets and Actual Asset Income when Net Family Assets Exceed $50,000 (As Adjusted)

Background: Sherry McNeil received a federal tax refund of $1,200 and deposited the refund into her checking account. At the time of her annual reexamination six months later, the account had a balance of $10,000 and earns 0-percent interest. Sherry also owns a stock portfolio with a verified value of $45,000. The stocks earned $405 in cash dividends last year, which Sherry expects to earn again in the coming year.
Scenario Total value of assets: $55,000 ($10,000 + $45,000 Net family assets: $53,800 ($55,000 – $1200) (tax refund received in the last 12 months is excluded from net family assets under § 5.603(b)(3)(xi).) Because the total value of Sherry's non-excluded assets exceeds $50,000, this value ($53,800) is included as net family assets and must be confirmed via third-party verification. Actual Income from Checking Account: $0 earned ($10,000 x 0 percent) Actual Income from Stock Portfolio: $405 earned in dividends last year on $45,000
Result: Total actual income from assets (must be included in the calculation of annual income for Sherry McNeil): $405 ($0 + $405)

F.6.b Imputed Income

Imputed income from assets is no longer determined based on the greater of actual or imputed income from the assets. Instead, imputed asset income must be calculated for specific assets when three conditions are met:

- The value of net family assets exceeds $50,000 (as adjusted for inflation);
- The specific asset is included in net family assets; and
- Actual asset income cannot be calculated for the specific asset.

If the actual income from assets can be computed for some assets but not all assets, then PHAs/MFH Owners must add up the actual income from the assets, where actual income can be calculated, then calculate the imputed income for the assets where actual income could not be calculated. After the PHA/MFH owner has calculated both the actual income and imputed income, the housing provider must combine both amounts to account for income on net family assets with a combined value of over $50,000.

When the family's net family assets do not exceed $50,000 (as adjusted for inflation), imputed income is not calculated. Imputed asset income is never calculated on assets that are excluded from net family assets. When actual income for an asset — which can equal $0 — can be calculated, imputed income is not calculated for that asset.

Example F8: Combining Actual and Imputed Asset Income

Background: The Jorgensen family owns a small piece of vacant land with a cash value of $25,000. The family also owns a savings account with a verified balance of $55,000, with an interest rate of 0 percent. The family's total net assets are $80,000. The PHA/MFH Owner can calculate the actual income of the savings account as $0, as seen below. The PHA/MFH Owner is unable to calculate the actual income earned for the property owned by the family, because the property neither generates any income for them nor could an income amount be computed as a matter of interest or dividend earnings. Therefore, imputed asset income for the real property must be calculated. The passbook savings rate in effect is 0.10 percent.
Scenario Actual Income from savings account: $55,000 x 0 percent = $0 actual income of savings account Imputed income from family's property: $25,000 x 0.001= $25 imputed income
Result: Total asset income (must be included in the calculation of annual income for the Jorgensen family): $25 ($0 + $25)

PHAs/MFH Owners should not conflate an asset with an actual return of $0 (as in the example above), with an asset for which an actual return cannot be computed, such as could be the case for some non-financial assets that are items of non-necessary personal property. If the asset is a financial asset and there is no income generated (for example, a bank account with a 0 percent interest rate or a stock that does not issue cash dividends), then the asset generates zero actual asset income, and imputed income is not calculated. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, and when no dividend is issued, the actual return is $0. When the stock never issues dividends, the actual return is consistently $0.

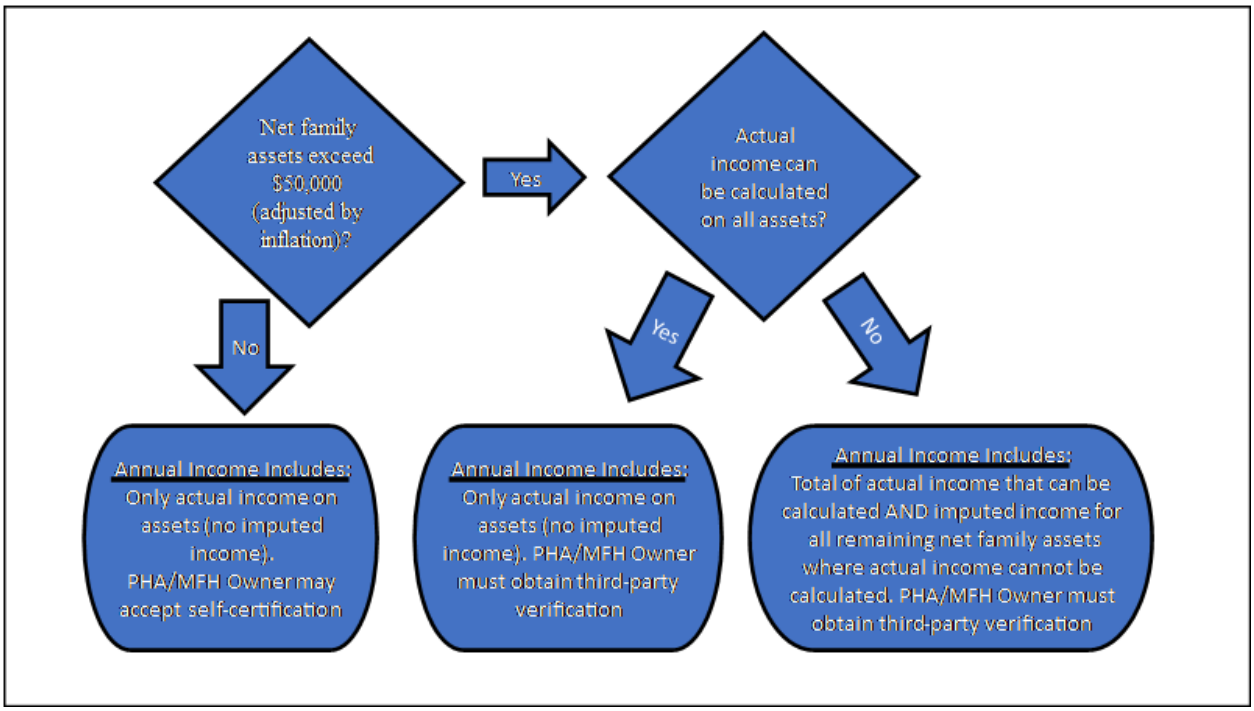
Example F9: Imputing Income when Actual Income Cannot Be Calculated

Background: The Conrad family owns a recreational boat with a Kelley Blue Book value of $15,000. They also own a checking account with $10,000 that earns 0 percent interest and a savings account with $30,000 that earns 3 percent interest, putting their net family assets value at $55,000. No actual returns on the boat can be computed, however actual income can be calculated for the savings account. The passbook savings rate in effect is 0.10 percent.
Scenario Actual income from assets: $900 (($10,000 x 0 percent) + ($30,000 x 0.03)) Imputed income from assets: $15 ($15,000 x 0.001)

Result: Total income from assets (must be included in the calculation of annual income for the Conrad family): $915 ($900 + $15)

The following chart illustrates different net family asset scenarios and whether to include actual and/or imputed assets in the family's annual income determination.

Chart F1: Decision Chart for Determining Income from Assets



PHA/MFH Owner Discretion: None.

F.7 Self-Certification of Net Family Assets Equal to or Less Than $50,000 (as adjusted for inflation)

Regulations: 24 CFR §§ 5.603; 5.609; 5.618; 5.659(e); 882.515(a); 882.808(i)(1); 891.105; 960.259(c)(2); and 982.516(a)(3)

Summary: PHAs/MFH Owners may determine net family assets based on a self-certification by the family that the family's total assets are equal to or less than $50,000, adjusted annually for inflation, without taking additional steps to verify the accuracy of the declaration at admission and/or reexamination. PHAs/MFH Owners are not required to obtain third-party verification of assets if they accept the family's self-certification of net family assets. When PHAs/MFH Owners accept self-certification of net family assets at reexamination[F3], the PHA/MFH Owner must fully verify the family's assets every three years.

[F3] See 24 CFR § 5.659(e); 960.259(c)(2); 982.516(a)(3).

PHAs/MFH Owners may follow a pattern of relying on self-certification for two years in a row and fully verifying assets in the third year.

The family's self-certification must state the amount of income the family anticipates receiving from such assets. The actual income declared by the family must be included in the family's income, unless specifically excluded from income under 24 CFR § 5.609(b). PHAs/MFH Owners must clarify, during the self-certification process, which assets are included/excluded from net family assets.

PHAs/MFH Owners may combine the self-certification of net family assets and questions inquiring about a family's present ownership interest in any real property into one form.

Example F10: Self-Certification of Net Family Assets

We know from Example F1 that the Cross family's net family assets are $0. In this case, the checking account earns 0.07 percent interest annually.

Cross Family's Personal Property

Item	Estimated Value	Type	Amount to be Considered as Non-Necessary Personal Property
Checking account	$5,000	Non-necessary personal property	$5,000
Ring (engagement ring)	$3,000	Necessary personal property	$0
Recreational boat	$15,000	Non-necessary personal property	$15,000
		Total Non-necessary personal property	$20,000

Calculation of Cross Family's Total Net Assets

Asset	Total to be considered in Net Family Assets	Anticipated Income
Non-necessary Personal Property (Checking Account)	$0	$3.50
Real Property	N/A	N/A
Total:	**$0**	**$3.50**

The PHA/MFH Owner may accept a self-certification of assets from the Cross family if the PHA/MFH Owner has a policy to do so (see paragraph below this example for PHA/MFH Owner Discretion on accepting self-certification). The self-certification must include any anticipated income from assets. In this example, if the PHA/MFH Owner is accepting a self-certification of assets, then the calculations above would not need to be included on the self-certification form. Only the total anticipated income from assets must be included on the form.

Note that in this instance, even though the checking account is excluded from the calculation of net family assets (because the combined value of non-necessary personal property does not exceed $50,000), the family must report actual asset income from the checking account (in this case, $3.50).

PHA/MFH Owner Discretion: PHAs/MFH Owners are not required to adopt a policy to allow for self-certification of net family assets for families with net family assets that are equal to or below $50,000, adjusted annually for inflation. PHAs/MFH Owners who choose not to accept self-certifications of assets must verify all families' assets on an annual basis. Third-party verification of assets is required when net family assets exceed $50,000, adjusted annually by HUD.

Accepting a family's self-certification at admission may reduce the initial burden on applicants and speed up the lease-up process. In deciding whether to accept a self-certification of assets at admission, PHAs/MFH Owners are encouraged to consider the local needs and priorities in their communities along with the potential risks of accepting self-certification of net family assets, including the requirement to repay funds for participants/tenants who are later found to be ineligible for assistance.

PHAs/MFH Owners must include in their ACOPs, Administrative Plans, or Tenant Selection Plans, as applicable, whether and when they accept a self-certification of assets equal to or less than $50,000, which amount will be adjusted annually by HUD. See Attachment H (Inflationary Adjustments) of this notice for more information.

ATTACHMENT G: TOPIC: INCOME EXCLUSIONS

Regulations

24 CFR §§ 5.609(b)(4)–(5); 5.609(b)(7)–(10); 5.609(b)(14)–(15); 5.609(b)(17); 5.609(b)(19)–(24); 5.609(b)(24)(i)–(vii); 5.609(b)(25); 5.609(b)(27)–(28); 5.611; and 891.105

Applicable Programs

HUD Multifamily Housing	HUD Multifamily Housing	Public and Indian Housing
Section 8 (Project Based Rental Assistance)	Section 202/8, Section 202/811 PRAC, Section 236 IRP, Section 811 PRA, SPRAC	HCV (including Project-Based vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO
Yes	Yes	Yes

Summary

The section below provides descriptions and clarifying information for new and updated income exclusions referenced in 24 CFR § 5.609(b). Please note that this section does not address all income exclusions listed in 24 CFR § 5.609(b) but only those that are newly added or updated by the final rule.

PHAs/MFH Owners must revise their interview guides and individual verification forms to ensure that adequate information will be collected to make appropriate income exclusion determinations.

Subtopics

G.1 Nonrecurring Income

Regulation: 24 CFR §§ 5.609(b)(24) and CFR 891.105

Summary: The nonrecurring income exclusion replaces the former exclusion for temporary, nonrecurring, and sporadic income (including gifts), but it provides a narrower definition of excluded income in contrast to the former broad exclusion of temporary, nonrecurring, or sporadic income.

Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. However, income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under § 5.609(b)(24), even if the source, date, or amount of the income varies.

Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from a family's annual income as nonrecurring income. This does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended. For example, an increasing number of cities and states are piloting guaranteed income

programs that have discrete beginning and end dates. This income can be excluded as nonrecurring in the final year of the pilot program. For example, for an annual reexamination effective 2/1/2024, guaranteed income that will be repeated in the coming year but will end before the next reexamination on 2/1/2025 will be fully excluded from annual income.

Income amounts excluded under this category may include, but are not limited to, nonrecurring payments made to the family or to a third party on behalf of the family to assist with utilities, 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.

The following list of exclusions is codified at 24 CFR § 5.609(b)(24) as nonrecurring income. Please note that the list is not exhaustive:

- Payments from the U.S. Census Bureau for employment lasting no longer than 180 days and not culminating in permanent employment;
- Direct federal or state economic stimulus payments;
- Amounts directly received by the family as a result of state refundable tax credits or state tax refunds at the time they are received;
- Amounts directly received by the family as a result of federal refundable tax credits or federal tax refunds at the time they are received;
- Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding, baby shower, or anniversary gifts);
- In-kind donations (e.g., food, clothing, or toiletries received from a food bank or similar organization); and
- Lump-sum additions to net family assets (e.g., lottery winnings, contest winnings, etc.).

PHAs/MFH Owners may accept a self-certification from the family stating that the income will not be repeated in the coming year.

Example G1: Recurring and Nonrecurring Income

Scenario A: Non-recurring earned income excluded from annual income: Justin Clark worked for four months over the past year for a company that has since gone out of business. During the Clark family's reexamination interview, the PHA/MFH Owner asks Justin whether he expects to work for the company again in the coming year. Justin provides proof that the company went out of business. The PHA/MFH Owner must exclude Justin's earned income received from the company that went out of business from the family's annual income.

Scenario B: Recurring earned income included in annual income: Ana Johnson works as an independent information technology (IT) contractor during various times of the year, when her clients require additional IT contract support. Ana reasonably believes that she will be contracted again the following year based on discussions with her clients. The PHA/MFH Owner must include the income that Ana earns as an IT contractor in the family's annual income.

Scenario C: Guaranteed Basic Income (GBI) excluded from annual income: Lucretia Jones reports at her upcoming annual reexamination effective on 5/1/24 that her GBI program will be ending

on 1/31/25. The PHA/MFH Owner excludes this income because the programs will stop before the next annual reexamination on 5/1/25. This income must be excluded, because there is a set term for the program, and the payments will not be repeated beyond the coming year, which is the final year of a GBI program.

Scenario D: Research stipend included as annual income: Lillian Gonzalez reports at the annual reexamination that will be effective on 5/1/24 that she receives monthly payments for participation in a research project that is expected to last for 18 months and will end on 9/30/25. The PHA/MFH Owner includes this as income because the amounts will be received through the next annual reexamination on 5/1/25. For the 5/1/25 annual reexamination, the family provides a letter stating that the income will end on 9/30/25, so the PHA/MFH Owner will exclude the income received after the 5/1/25 annual reexamination.

PHA/MFH Owner Discretion: None.

G.1.a Nonrecurring Income: Temporary U.S. Census Bureau Employment

Regulation: 24 CFR § 5.609(b)(24)(i)

Summary: Payments from the U.S. Census Bureau for employment relating to the decennial census or the American Community Survey lasting no longer than 180 days and not culminating in permanent employment are excluded from annual income. However, it should be noted that any permanent employment with the U.S. Census Bureau should be considered in the annual income calculation.

PHA/MFH Owner Discretion: None.

G.1.b Nonrecurring Income: Economic Stimulus or Recovery Payments

Regulation: 24 CFR § 5.609(b)(24)(ii)

Summary: Direct federal or state payments intended for economic stimulus or recovery are excluded from annual income.

HUD will continue to advise PHAs/MFH Owners of which payments are considered economic stimulus or recovery payments for the purposes of income calculation.

PHA/MFH Owner Discretion: None.

G.1.c Nonrecurring Income: State Tax Refunds

Regulation: 24 CFR § 5.609(b)(24)(iii)

Summary: Amounts directly received by the family as a result of state refundable tax credits or state tax refunds at the time they are received are excluded from annual income.

PHA/MFH Owner Discretion: None.

G.1.d Nonrecurring Income: Federal Tax Refunds

Regulation: 24 CFR § 5.609(b)(24)(iv)

Summary: Amounts directly received by the family as a result of federal refundable tax credits and federal tax refunds at the time they are received are excluded from annual income.

PHA/MFH Owner Discretion: None.

G.1.e Nonrecurring Income: Gifts

Regulation: 24 CFR § 5.609(b)(24)(v)

Summary: Gifts for holidays, birthdays, or other significant life events or milestones (e.g., weddings, baby showers, anniversaries) are excluded from annual income.

Example G2: Gifts for Holidays, Birthdays, or Other Significant Life Events or Milestones

Mariah Smith received a check for $250 on her 25th birthday from her favorite aunt and $30 from her cousin. These gifts are excluded from annual income.

PHA/MFH Owner Discretion: None.

G.1.f Nonrecurring Income: In-Kind Donations

Regulation: 24 CFR § 5.609(b)(24)(vi)

Summary: Non-monetary in-kind donations, such as food or toiletries, received from a food bank or similar organization are excluded from annual income. When calculating annual income, PHAs/MFH Owners are prohibited from assigning monetary value to non-monetary in-kind donations received by the family.

Non-recurring, non-monetary in-kind donations from friends and family may be excluded as non-recurring income. See (24 CFR § 5.609(b)(24)).

Example G3: In-Kind Donations

Jonas Crandall receives a basket weekly from the local food bank that includes both food and toiletries. Because this is an in-kind donation from the local food bank, the PHA/MFH Owner must not include the basket items in the calculation of annual income.

PHA/MFH Owner Discretion: None.

G.2 Lump-Sum Additions to Net Family Assets

Regulation: 24 CFR § 5.609(b)(24)(vii)

Summary: Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings, are excluded from annual income. These amounts may count toward net family assets in accordance with 24 CFR § 5.603.

Example G4: Lump-Sum Additions to Net Family Assets

Scenario A: Trevor Lucky bought 10 lottery tickets and discovered that one of the tickets won Trevor $1,000. Trevor reported his winnings as part of an interim reexamination. The PHA/MFH Owner determined that the lottery winnings are a one-time, lump-sum addition to net family assets and should not be included in the annual income calculation.

Scenario B: Logan fundraises $5,000 online to help pay for personal expenses (e.g., “Go Fund Me”). The PHA/MFH Owner verified with Logan that this was a one-time solicitation for donations of cash and

that Logan does not intend for this to be a recurring source of income. The $5,000 is a one-time, lump-sum addition to net family assets and should not be included in the annual income calculation.

Scenario C: At the next annual reexamination, the PHA/MFH Owner determines that Logan solicited for donations online a second time and raised an additional $4,500. Again, Logan certified that he does not intend for this to be a recurring source of income, but, because the PHA/MFH Owner can establish a pattern, the $4,500 is **not** considered a lump-sum addition to net family assets and **should** be included in the annual income calculation.

PHA/MFH Owner Discretion: None.

G.3 Income Earned on Amounts Placed in a Family's Family Self Sufficiency (FSS) Account

Regulation: 24 CFR § 5.609(b)(27)

Summary: Income earned on amounts placed in a family's FSS account is excluded from the family's calculation of annual income.

PHA/MFH Owner Discretion: None.

G.4 Income of Live-in Aides, Foster Children, and Foster Adults

Regulation: 24 CFR § 5.609(b)(8)

Summary: Income of a live-in aide, foster child, or foster adult as defined in 24 CFR §§ 5.403 and 5.603 is excluded from the family's calculation of annual income.

PHA/MFH Owner Discretion: None.

G.5 Payments Received for the Care of Foster Children or Foster Adults or State or Tribal Kinship or Guardianship Care Payments

Regulation: 24 CFR § 5.609(b)(4)

Summary: Payments received for the care of foster children or foster adults, or state or Tribal kinship or guardianship care payments, are excluded from annual income.

This income exclusion also applies to Kinship Guardian Assistance Payments (Kin-GAP), kinship care payments, and other state-based kinship or guardianship payments that are alternatives to traditional foster care programs.

PHA/MFH Owner Discretion: None.

G.6 Insurance Payments or Settlements

Regulation: 24 CFR § 5.609(b)(5)

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

Example G5: Insurance Payments or Settlements

Bethanne Williams received a settlement from her insurance company in the amount of $2,500 because of a car accident. Bethanne's car accident settlement payment is excluded from annual income.

Example G6: Workers' Compensation Received In Lieu of Wages

Tobias Reynolds was injured in a work accident. He is receiving worker's compensation equal to his salary paid in biweekly installments for a period of less than one year. These amounts are excluded from annual income.

PHA/MFH Owner Discretion: None.

G.7 Civil Action Recoveries or Settlements

Regulation: 24 CFR § 5.609(b)(7)

Summary: Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law that resulted in a member of the family becoming a person with disabilities are excluded from annual income. Any amounts recovered are excluded irrespective of whether they are received periodically or in a lump sum payment.

Example G7: Civil Action Recoveries or Settlements

Jacob Mitchell became a person with disabilities due to a construction site accident. He received $60,000 from a civil negligence case. The $60,000 received by Jacob is excluded from annual income.

PHA/MFH Owner Discretion: None.

G.8 Earned Income of Dependent Full-Time students

Regulation: 24 CFR § 5.609(b)(14)

Summary: Earned income of dependent full-time students in excess of the amount of the deduction for a dependent in § 5.611 is excluded from annual income. Full-time students must be dependent family members for this exclusion to apply. This exclusion does not apply to the head of household, spouse, or co-head. This means that the first $480 of the income earned by dependent full-time students will be included in the family's calculation of annual income.

The dependent deduction will be adjusted annually in accordance with the (CPI–W). See Attachment H. Full-time dependent students are eligible to receive both the $480 (as adjusted for inflation) dependent deduction and the exclusion described in this paragraph.

PHA/MFH Owner Discretion: None.

G.9 Adoption Assistance Payments

Regulation: 24 CFR § 5.609(b)(15)

Summary: Adoption assistance payments in excess of $480 per adopted child are excluded from the family's calculation of annual income. This amount will be adjusted annually in accordance with the CPI–W. See Attachment H.

All dependents, including adopted family members, are eligible to receive the $480 (as adjusted for inflation) dependent deduction and the exclusion described in this paragraph.

PHA/MFH Owner Discretion: None.

G.10 Veterans Regular Aid and Attendance

Regulation: 24 CFR § 5.609(b)(17)

Summary: Payments to veterans in need of regular aid and attendance are excluded from annual income under 38 U.S.C. 1521. This income exclusion applies only to veterans in need of regular aid and attendance and not to other beneficiaries of the payments, such as a surviving spouse.

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

PHA/MFH Owner Discretion: None.

G.11 Home-Based Care Payments for a Family Member(s) with a Disability(ies)

Regulation: 24 CFR § 5.609(b)(19)

Summary: 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 are excluded from the calculation of the family's annual income. 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.

A family member with a disability qualifies for this income exclusion. Amounts received may be intended for items such as services, equipment, and compensation provided to a family member. The payments are excluded from income as long as the amounts are provided to enable a family member with a disability to remain in the family's assisted unit. Both the person providing the care and the person who has the disability must be family members (not household members) and must live in the same assisted household. The exclusion does not apply to income earned by the family for other caregiving services provided to individuals outside of the assisted household.

PHA/MFH Owner Discretion: None.

G.12 Loan Proceeds

Regulation: 24 CFR § 5.609(b)(20)

Summary: Loan proceeds (the net amount disbursed by a lender to a borrower under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family to finance the purchase of a car) are excluded from annual income. The

loan borrower or co-borrower must be a member of the family for this income exclusion to be applicable.

Loan proceeds may include, but are not limited to, personal loans (with a loan agreement) and student loans, regardless of whether the proceeds are received in the form of a refund to the student.

PHA/MFH Owner Discretion: None.

G.13 Certain Payments Received by Tribal Members

Regulation: 24 CFR § 5.609(b)(21)

Summary: 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 (IRC) or other federal law, are excluded from annual income.

Generally, payments received by tribal members in excess of the first $2,000 of per-capita shares are included in a family's annual income for purposes of determining eligibility. However, as explained below, payments made under the Cobell Settlement, and certain per-capita payments under the recent Tribal Trust Settlements, must be excluded from annual income in HUD programs that adopt the definitions of annual income in 24 CFR 5.609, the Census Long Form, and the IRS Form 1040, including the programs affected by this notice.[G1]

The following two subsections describe the circumstances when settlement payments paid to Tribal members are excluded from annual income through federal law or as required under the IRC.

G.13.a Cobell Settlement

In *Elouise Cobell et al. v. Ken Salazar et al.*,[G2] a class of individual members of Indian tribes filed suit against the United States for its failure to adequately manage certain trust assets. The settlement was authorized pursuant to the Claims Resolution Act of 2010 (Pub. L. 111–291). In accordance with the Act, lump-sum or periodic payments received by an individual Indian under the Cobell Settlement are statutorily excluded from counting toward a family's annual income, or as a resource, for purposes of determining initial eligibility or level of HUD assistance, for a period of one year from the time of receipt of that payment. This exclusion from income applies to all HUD programs and is included in the

[G1] A payment received by a tribal member from the tribe for distribution of Indian gaming profits is not a per-capita payment within the meaning of the Per Capita Distribution Act and does not qualify for income exclusion. If a family member who is a tribal member receives the Internal Revenue Service (IRS) Form 1099–MISC, Miscellaneous Income, from the tribe for reporting Indian gaming profits, then this payment must be counted toward the family's annual income.

[G2] https://naturalresources.house.gov/uploadedfiles/cobellsettlementagreement_120709.pdf.

list of federally mandated exclusions from annual income that HUD periodically publishes in the *Federal Register*.[G3]

G.13.b Tribal Trust Settlements

The United States has entered into settlements with a number of federally recognized Indian tribes, settling litigation in which the tribes alleged that the Department of the Interior and the Department of the Treasury mismanaged monetary assets and natural resources the United States holds in trust for the benefit of the tribes. In some circumstances, proceeds from these settlements have resulted in, or will result in, per-capita payments to Indian families by Indian tribes. To date, at least 70 Indian tribes have settled Tribal Trust cases.

24 CFR 5.609(b)(21) requires that certain payments received by Tribal members, to the extent that such payments are excluded from gross income under the IRC, must be excluded from family income. The Internal Revenue Service (IRS) issued guidance in IRS Notice 2013−1, "Per Capita Payments from Proceeds of Settlements of Indian Tribal Trust Cases," advising that per-capita payments made from the proceeds of the enumerated Tribal Trust Settlements are excluded from the gross income of the members of the tribe receiving the per-capita payments under 25 USC 117b(a) and 25 USC 1407.

IRS Notice 2013−1 also clarifies, however, that per-capita payments that exceed the amount of the Tribal Trust Settlement proceeds and that are made from an Indian tribe's private bank account in which the tribe has deposited the settlement proceeds are included in the gross income of the members of the tribe receiving the per-capita payments. For example, if an Indian tribe receives proceeds under a settlement agreement, invests the proceeds in a private bank account that earns interest, and subsequently distributes the entire amount of the bank account as per-capita payments, then a member of the tribe excludes from gross income that portion of the member's per-capita payment attributable to the settlement proceeds under 25 USC 117b(a) and 25 USC 1407 and must include the remaining portion of the per-capita payment in gross income in accordance with the guidance provided in IRS Notice 2013-1. Per-capita payments not excluded from gross income in accordance with the IRC should be reviewed for potential exclusion as "nonrecurring income" (24 CFR § 5.609(b)(24)) or as "lump sum additions to net family assets" (24 CFR § 5.609(b)(24)(vii)).

The IRS last updated the list of Indian tribes who have entered into Tribal Trust Settlements with the United States in 2013,[G4] and for whom per-capita Tribal Trust payments are excluded from gross income. PHAs/MFH Owners should ensure they are reviewing the current list of Tribal Trust Settlements when determining whether a family's per-capita proceeds should be excluded from annual income.

[G3] Last published on 5/20/2014: https://www.federalregister.gov/documents/2014/05/20/2014-11688/federally-mandated-exclusions-from-income-updated-listing.

[G4] See IRS Notice 2013-55, available at: http://www.irs.gov/pub/irs-drop/n-13-55.pdf.

Example G8: Tribal Trust Settlements

Scenario A: An Indian tribe received $1.2 million from a Tribal Trust Settlement. The Indian tribe immediately distributed per-capita payments to its members. The Tribal Trust Settlement is treated in accordance with the guidance in IRS Notice 2013–1 and excluded from adjusted gross income under 25 USC 117b(a) and 25 USC 1407. Therefore, the per-capita payments to members are excluded from annual income.

Scenario B: An Indian tribe received $10 million from a Tribal Trust Settlement. The Indian tribe invested the settlement funds at a private institution. After a year, the Indian tribe distributed the settlement funds plus earned interest to its members. IRS Notice 2013–1 provides guidance that per capita payments that exceed the amount of the Tribal Trust case settlement proceeds and that are made from an Indian tribe's private bank account in which the tribe has deposited the settlement proceeds are not excluded from adjusted income under 25 USC 117b(a) and 25 USC 1407, so the interest payments to members are not excludable from annual income under 24 CFR 5.609(b)(21). The PHA/MFH Owner must determine whether the per-capita interest payments to members should be included in the family's income or excluded from income under a different regulatory provision such as 24 CFR 5.609(b)(24).

Please note that the first $2,000 of per capita payments are also excluded from assets, except when these per capita payments are in excess of the settlement amount and are included (IRS Notice 2013-1, 25 USC 117b(a), and 25 USC 1407).

PHA/MFH Owner Discretion: None.

G.14 Exclusions from Other Federal Statutes

Regulation: 24 CFR § 5.609(b)(22)

Summary: This exclusion applies to all amounts that HUD is required by federal statute to exclude from annual income. HUD will publish a notice in the *Federal Register* to identify the benefits that qualify for this exclusion. Updates will be published when necessary.

PHA/MFH Owner Discretion: None.

G.15 Replacement Housing Gap Payments

Regulation: 24 CFR § 5.609(b)(23)

Summary: Replacement housing "gap" payments made in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 ("URA"), as implemented by 49 CFR Part 24, are excluded from annual income. "Gap" payments offset the increased out-pocket costs of displaced persons who move from one federally subsidized housing unit to another federally subsidized housing unit.

However, replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments.

Replacement housing "gap" payments should cover a minimum of 42 months of tenancy at the new unit.

Example G9: Replacement Housing Gap Payments

The Patel family was displaced from their Project-Based Voucher unit as the result of a HUD-funded acquisition and rehabilitation of the property that will last longer than one year. The family subsequently obtained a Housing Choice Voucher (HCV) and moved into a home where the owner accepts HCVs. The Patels' rent and utility expenses are $100 higher in their new unit. The Patels receive replacement housing "gap" payments of $100 intended to cover the difference between the Patels' former rent and utility expenses in their Project-Based Voucher unit and their current rent and expenses under their HCV assistance. The "gap" payments must be excluded from the family's annual income for the period during which gap payments are provided under the URA (42 months) or the increased cost of rent and utilities is reduced or eliminated, whichever is shorter.

PHA/MFH Owner Discretion: None.

G.16 Student Financial Assistance

Regulation: 24 CFR § 5.609(b)(9)

Summary: The treatment of student financial assistance depends on the HUD program, student/household characteristics, and the type of financial assistance received by the student. The student financial assistance rules apply to both full-time and part-time students.

The two types of student financial assistance applicable to MFH and PIH programs are described below.

G.16.a Amounts Received Under Section 479B of the Higher Education Act (HEA) of 1965, as amended (20 U.S.C. 1087uu)

Section 479B provides that certain types of student financial assistance are to be excluded in determining eligibility for benefits made available through federal, state, or local programs financed with federal funds. The types of financial assistance listed below are considered 479B student financial assistance programs; however, this list is not exhaustive, and 479B will be updated as of July 1, 2024.

- Federal Pell Grants;
- Teach Grants;
- Federal Work Study Programs;
- Federal Perkins Loans;
- Student financial assistance received under the Bureau of Indian Education;
- Higher Education Tribal Grant;
- Tribally Controlled Colleges or Universities Grant Program;
- Employment training program under section 134 of the Workforce Innovation and Opportunity Act (WIOA).

G.16.b Other Student Financial Assistance

Other student financial assistance includes grants or scholarships received from the following sources:

- The Federal government;
- A state (including U.S. territories), Tribe, or local government;
- A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);
- A business entity (such as a corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- An institution of higher education.

Other student financial assistance does not include:

- Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded under section 479B of the Higher Education Act HEA); or
- Gifts, including gifts from family or friends.

Note: Other student financial assistance may be paid directly to the student or to the educational institution on the student's behalf. The PHA/MFH Owner must verify that the other student financial assistance is for the student's actual covered costs.

The following sections describe the treatment of the two above-described types of student financial assistance by program type.

G.16.c Non−Section 8 Programs Subject to this Notice

All assistance received under 479B of the HEA by students participating in the Public Housing or non−Section 8 programs administered by MFH is excluded from income. Other student financial assistance received by the student that, either by itself or in combination with HEA assistance, exceeds the actual covered costs is not excluded from income. Prior to the final rule, the full amount of student financial assistance paid directly to the student or to the educational institution was excluded.

Actual covered costs include: tuition, books, supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and fees required and charged to a student by an institution of higher education (as defined under section 102 of the Higher Education Act of 1965 (20 U.S.C. 1087uu)). For a student who is not the head of household, co-head, or spouse, 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 formula for calculating the amount of other student financial assistance that is excluded from income always begins with deducting the assistance received under 479B of the HEA from the total actual covered costs, because the 479B assistance is intended to pay the student's actual covered costs. This formula is illustrated in chart 2, below.

Chart G1: Steps in Calculating Amount of Other Student Financial Assistance

Step 1: Subtract the **amount received under section 479B of the HEA** from the **actual covered costs** to arrive at the **amount of actual covered costs exceeding section 479B assistance**.

If the amount of assistance received under section 479B of the HEA exceeds the actual covered costs and the student did not receive any other student financial assistance, then step 2 is not necessary; none of the student financial assistance will be included in income, because the assistance received under section 479B of the HEA is excluded from income for students participating in the Public Housing and non–Section 8 programs administered by MFH.

Step 2: Subtract the **actual covered costs exceeding section 479B assistance** from the amount of **other student financial assistance** to arrive at the amount of **student financial assistance included in income**.

Step 2 requires the amount of other student financial assistance received by the student to be subtracted from the amount of actual covered costs paid by other means. If the resulting number in Step 2 is a positive amount, then that is the amount that should be included in the family's income. If the resulting number in Step 2 is zero or a negative amount, then there will be no student financial assistance included in income (i.e., all student financial assistance is excluded from annual income).

The following examples illustrate the treatment of student financial assistance for Public Housing and non–Section 8 programs:

Example G10: Treatment of Student Financial Assistance in Non–Section 8 Programs

<table>
<tr><td colspan="2">Juan is a full-time student, and he received the following grants and scholarships to cover his first year of college: Federal Pell Grant: $25,000; University Scholarship: $15,000; Rotary Club Scholarship: $3,000.</td></tr>
<tr><td>Total assistance received under 479B of HEA: $25,000 (Federal Pell Grant)

Total other student financial assistance received: $18,000</td><td>Juan's actual covered costs: $28,000</td></tr>
<tr><td>Step 1: Determine amount of actual covered costs exceeding section 479B assistance.

$28,000 (actual covered costs) minus $25,000 (total assistance received under 479B of HEA) equals $3,000</td><td>Step 2: Determine amount of student financial assistance to include in income.

$18,000 (other student financial assistance received) minus $3,000 (actual covered costs exceeding section 479B assistance) equals $15,000 (if negative, then use $0)</td></tr>
<tr><td colspan="2">Amount of student financial assistance included in Juan's income: $15,000</td></tr>
</table>

Example G11: Treatment of Student Financial Assistance in Non–Section 8 Programs

<table>
<tr><td colspan="2">Sarah is a part-time student, and she received the following amounts to cover her first year of college: Federal Perkins Loan: $2,000; Scholarship from Local Car Dealership: $500; Gift from Aunt Lois: $1,000.

The $1,000 is a gift from Aunt Lois, so it is not considered student financial assistance, and it is not considered in this calculation. Note: If Aunt Lois gives Sarah the $1,000 gift as a one-time, lump-sum payment, it would be excluded from income under 24 CFR § 5.609(b)(24)(vii).</td></tr>
<tr><td>Total assistance received under 479B of HEA: $2,000 (Federal Perkins Loan)

Total other student financial assistance received: $500

Total non-student financial assistance: $1,000

Total student financial assistance: $2,500</td><td>Sarah’s actual covered costs: $3,000</td></tr>
<tr><td>Step 1: Determine amount of actual covered costs exceeding section 479B assistance.

$3,000 (actual covered costs) minus $2,000 (total assistance received under 479B of HEA) equals $1,000</td><td>Step 2: Determine amount of student financial assistance to include in income.

$500 (other student financial assistance received) minus $1,000 (amount of actual covered costs exceeding section 479B assistance) equals –$500 (if negative, then use $0)</td></tr>
<tr><td colspan="2">The amount of student financial assistance received by Sarah is less than her actual covered costs after deducting assistance received under 479B of the HEA and other student financial assistance received, therefore there is no student financial assistance to include in income.

Amount of student financial assistance included in Sarah’s income: $0</td></tr>
</table>

Example G12: Treatment of Student Financial Assistance in Non–Section 8 Programs

<table>
<tr><td colspan="2">Dante is a full-time student, and he received the following amounts to cover his first year of college: Federal Pell Grant: $9,000; Federal Perkins Loan: $13,000; Local Library Scholarship: $1,000.</td></tr>
<tr><td>Total assistance received under 479B of HEA: $22,000 (Federal Pell Grant plus Federal Perkins Loan)

Total other student financial assistance received: $1,000</td><td>Dante’s actual covered costs: $16,000</td></tr>
<tr><td>Step 1: Determine amount of actual covered costs exceeding section 479B assistance.

$16,000 (actual covered costs) minus $22,000 (total assistance received under 479B of HEA) equals $–6,000</td><td>Step 2: Determine amount of student financial assistance to include in income.

Not necessary because Step 1 resulted in a negative amount, so all other student financial assistance would be included in Dante’s income</td></tr>
<tr><td colspan="2">Amount of student financial assistance included in Dante’s income: $1,000</td></tr>
</table>

G.16.d Section 8 (Including HCV and 202/8)

There are distinct differences in the treatment of student financial assistance between the Section 8 program and the Public Housing and non–Section 8 programs administered by MFH due to language in the annual appropriations acts. Section 210(b) of the Consolidated Appropriations Act, 2023,[G5] requires that, "for purposes of determining the eligibility of a person to receive assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), any financial assistance (in excess of amounts received for tuition and any other required fees and charges) that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or from an institution of higher education (as defined under section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except for a person over the age of 23 with dependent children." HUD interprets that "a person over the age of 23" is 24 years old.

While the Consolidated Appropriations Act, 2023, language is limited to federal fiscal year 2023, this does not rule out the possibility that similar language will be included in future years' appropriations bills. For any funds from a year where HUD's appropriations include this Section 8 student financial assistance limitation, if the student is the head of household, co-head, or spouse and is under the age of 23 or without dependent children, then both the assistance received under 479B of the HEA and other student financial assistance received by the student will be counted as income to the extent that it exceeds the total of tuition and any other required fees and charges.[G6] In contrast, the student financial assistance received by a Section 8 student who is the head of household, spouse, or co-head of household and is over the age of 23 with dependent children will be treated in a manner identical to the student financial aid received by students who participate in the Public Housing and non–Section 8 programs administered by MFH.

During years in which an appropriations act does not contain this Section 8 student financial assistance limitation (or any other such limitation), then the determination of student financial assistance as included/excluded income for all Section 8 students defaults to the methodology described above for the Public Housing and non–Section 8 programs administered by MFH.

There are two steps required as part of the calculation for Section 8 students, the first of which is to determine the student's relationship to the household, age, and whether they have dependent children; based on the result of the first step, the second step is to calculate whether any excess student financial assistance should be included in the family's income. If the student is the head of household, co-

[G5] https://www.congress.gov/117/bills/hr2617/BILLS-117hr2617enr.pdf.

[G6] The definition of tuition and other required fees and charges for Section 8 students is synonymous with the definition of "actual covered costs" described in the previous section for the Public Housing and non–Section 8 programs administered by MFH. For Section 8 students, HUD uses the term "tuition and other required fees" solely to reflect the language in the appropriations bill.

head, or spouse and is 23 or younger or does not have dependent children, then 479B assistance **will** be part of the total equation (see example G1, below). If the student is over 23 with dependent children, then the calculation will be identical for Public Housing and non–Section 8 MFH students, as described above.

The formula for calculating the excess amounts of financial assistance included in annual income is a one-step process of subtracting the total student financial assistance from all sources from the total tuition plus required fees and charges. The one-step calculation is illustrated in chart 3, below.

Chart G2: Formula for Calculating Excess Amounts of Financial Assistance

Subtract **total student financial assistance from all sources** from **total tuition plus required fees and charges** to arrive at **excess amount of student financial assistance**.
If the excess amount of student financial assistance is a positive number, then include that amount in annual income. If the excess amount of student financial assistance is zero or negative, then do not include that amount in annual income.
If the total tuition plus required fees and charges is zero or exceeds the amount of total financial assistance from all sources, then no excess amounts of student financial assistance will be included in annual income. Any amount of student financial assistance that exceeds the total tuition plus required fees and charges must be included in annual income.

Example G13: Treatment of Student Financial Assistance in Section 8 Programs

Roberto is a 22-year-old full-time student without dependent children. Since Roberto is a Section 8 participant head of household who is not over 23 with dependent children, the PHA/MFH Owner follows the Appropriations Act policy to determine if Roberto receives student financial assistance in excess of tuition from both HEA and other sources. Roberto received the following amounts to cover his first year of college: Federal Pell Grant: $12,000; University Scholarship: $22,000; City Scholarship: $3,000.	
Total assistance received under 479B of HEA: $12,000 (Federal Pell Grant) Total other student financial assistance received: $25,000 Total student financial assistance from all sources: $37,000	Total tuition + required fees and charges: $27,000
Subtract the total cost of tuition + required fees and charges from the total amount of student financial assistance: $37,000 – $27,000 = $10,000	
The total amount of student financial assistance from all sources received by Roberto exceeds the total amount of tuition and required fees and charges.	
Excess student financial assistance: $10,000	
Amount of student financial assistance included in Roberto's income: $10,000	

Example G14: Treatment of Student Financial Assistance in Section 8 Programs

<table>
<tr><td colspan="2">Cedric is a 28-year-old head of household and a full-time student with a 5-year-old daughter and a 9-year-old son who are his dependents. The PHA/MFH Owner will follow the rules under § 5.609(b)(9) (the same as for non–Section 8 programs) as described in the previous section. Cedric received the following amounts to cover his first year of college: Teach Grant: $8,000; Federal Pell Grant: $3,000; College Scholarship: $6,000.</td></tr>
<tr><td>Total assistance received under 479B of HEA: $11,000 (Teach Grant plus Federal Pell Grant)

Total other student financial assistance received: $6,000</td><td>Total tuition + required fees and charges: $26,000</td></tr>
<tr><td>Step 1: Determine amount of tuition plus required fees exceeding 479B assistance.

$26,000 (total tuition + required fees and charges) minus $11,000 (total assistance received under 479B of HEA) equals $15,000</td><td>Step 2: Determine amount of student financial assistance to include in income.

$6,000 (other student financial assistance received) minus $15,000 (amount of tuition + required fees and charges exceeding 479B assistance) equals –$9,000 (if negative, then use $0)</td></tr>
<tr><td colspan="2">The amount of other student financial assistance received by Cedric does not exceed the total amount of tuition and required fees and charges.</td></tr>
<tr><td colspan="2">Excess student financial assistance: $0</td></tr>
<tr><td colspan="2">Amount of student financial assistance included in Cedric’s income: $0</td></tr>
</table>

Example G15: Treatment of Student Financial Assistance in Section 8 Programs

<table>
<tr><td colspan="2">Angel is a 38-year-old full time student, head of household, without dependent children. Since Angel does not have dependent children, the Appropriations Act policy does not apply, and the PHA/MFH Owner must include assistance received under 479B of the HEA as part of the excess student financial aid calculation. Angel received the following amounts to cover her first year of college: Perkins Loan: $8,000.</td></tr>
<tr><td>Total assistance received under 479B of HEA: $8,000 (Perkins Loan)</td><td>Total tuition + other fees and charges: $6,200</td></tr>
<tr><td colspan="2">Determine whether the amount of student financial assistance, including 479B assistance, exceeds the total of tuition + required fees and charges: $8,000 – $6,200 = $1,800</td></tr>
<tr><td colspan="2">Excess student financial assistance: $1,800</td></tr>
<tr><td colspan="2">Amount of student financial assistance included in Angel’s income: $1,800</td></tr>
</table>

PHA/MFH Owner Discretion: None.

G.17 Achieving a Better Life Experience (ABLE) Accounts

Regulation: 24 CFR § 5.609(b)(22)

Summary: ABLE accounts are excluded from the definition of net family assets, and therefore income generated from such accounts is not considered when calculating income from assets. Distributions from these accounts are also excluded from income.

HUD developed specific guidance on ABLE accounts based on language included in the ABLE Act of 2014. Certain contributions deposited into ABLE accounts are excluded in addition to the above-mentioned exclusions. See *Treatment of ABLE Accounts in HUD-Assisted Programs* (Notice H 2019–06/PIH 2019–09).

PHA/MFH Owner Discretion: None.

G.18 Income and Distributions from Coverdell Education Savings Accounts, 529 Accounts and "Baby Bond" Accounts

Regulation: 24 CFR § 5.609(b)(10)

Summary: Income and distributions from any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by Federal, State, or local government are excluded from income and net family assets.

PHA/MFH Owner Discretion: None.

G.19 Gross Income from Self-Employment or Operation of a Business

Regulation: 24 CFR §§ 5.609(b)(24) and 5.609(b)(28)

Summary: The gross income received by a family through self-employment or the operation of a business is excluded from income. Gross income is all income amounts received into the business, prior to the deduction of business expenses. To determine the amount of business or self-employment income included in a family's annual income, the net income of the business must first be determined.

Net income is the "gross income amount minus business expenses" that allows the business to operate.

The net income from self-employment or the operation of a business is considered income. Expenditures for business expansion or amortization of capital indebtedness are not deductible when determining the income from a business. An allowance for the depreciation of assets used in a business or profession may be deducted, based on a straight-line depreciation, as provided in IRS's regulations.[G7] Any withdrawal of cash or assets from the operation of a business is income except to the extent that such withdrawal is to reimburse the family member for cash or assets that the family has invested in the operation of the business.

[G7] 26 CFR § 1.167(b)-1 Straight line method: https://www.ecfr.gov/current/title-26/chapter-I/subchapter-A/part-1/subject-group-ECFRc4930337f38ecfd/section-1.167(b)-1.

Example G16: Exclusion of Gross Income from Self-Employment or Operation of a Business

Bill Conrad is the sole owner of BC Lawn Service. BC Lawn Service grossed $75,000 annually in 2024. BC Lawn Service also incurred a total of $35,000 in business expenses, including lawn equipment, rakes, insurance, depreciation of a tractor, and wage payments. After subtracting the $35,000 in business expenses from the $75,000 gross income, the net income is $40,000, which will be included in Bill's calculation of annual income.

PHA/MFH Owner Discretion: None.

G.20 Elimination of the Earned Income Disregard (EID)

Regulation: 24 CFR § 5.611

Summary: The Earned Income Disregard (EID) will not apply to any family who is not eligible for **and already participating in** the disallowance as of December 31, 2023.

The EID allowed eligible families to have a portion of their earned income excluded from annual income for a maximum period of 24 consecutive months.

Although HOTMA eliminates the EID from HUD regulations, families who were receiving the EID benefit as of December 31, 2023, may continue to receive the full benefit until the remaining timeframe for an individual family's EID expires. Because the EID lasts up to 24 consecutive months, no family will still be receiving the EID benefit after December 31, 2025.

Note: The EID policies described above are distinct from similar policies in the Jobs Plus program. Families eligible to receive the Jobs Plus program rent incentive (Jobs Plus Earned Income Disregard (JPEID)) pursuant to the FY2023 Notice of Funding Opportunity (NOFO) or earlier appropriation distributed through prior Jobs Plus NOFOs may continue to receive JPEID under the terms of the NOFO. The JPEID was established by HUD as an alternative requirement to EID for Jobs Plus grantees by waiving section 3(d) of the U.S. Housing Act of 1937 (42 U.S.C. 1437a(d)) and § 960.255(b) and (d). For more information about JPEID waivers and alternative requirements, please review the following *Federal Register* notices: 80 FR 13415 (March 13, 2015) and 83 FR 13506 (March 29, 2018).

PHA/MFH Owner Discretion: None.

G.21 Civil Rights Settlements or Judgments

Regulation: 24 CFR § 5.609(b)(25)

Summary: Civil rights settlements or judgments, including settlements or judgments for back pay, are excluded from the calculation of annual income.

Historically HUD has followed a practice of excluding from income civil rights settlements and judgments as lump-sum additions to assets, which would 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 nondiscrimination laws. However, this new exclusion clarifies that even where such payments are not lump-sum payments but instead may have a payment schedule, such payments are excluded. Additionally, this

exclusion applies to back pay received by the family pursuant to a civil rights settlement or judgment.

PHA/MFH Owner Discretion: None.

ATTACHMENT H: TOPIC: INFLATIONARY ADJUSTMENTS

Regulations

See table H1, below.

Applicable Programs

HUD Multifamily Housing	HUD Multifamily Housing	Public and Indian Housing
Section 8 (Project Based Rental Assistance)	Section 202/8, Section 202/811 PRAC, Section 236 IRP, Section 811 PRA, SPRAC	HCV (including Project-Based vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO
Yes	Yes	Yes

Summary

HUD will annually publish the eight inflation-adjusted items in the table below no later than September 1, and the updated values will be shared online at the HUDUser Web site. The publication will apply to both MFH and PIH programs. The revised amounts will be effective on January 1 of the following year. The first set of adjustments for inflation will be made effective January 1, 2025.

HUD plans to publish in the *Federal Register* a notice soliciting the public's comment on HUD's methodology for recalculating inflationary adjusted items.

Table H1: Inflationary Adjustment Items

Adjusted Item	Regulatory Reference	Notice Section	Amount Effective on 1/1/2024 (subject to Annual Adjustment)	Rounding Methodology	Applicable Programs
Eligibility restriction on net family assets	24 CFR § 5.618(a)(1)(i)	Attachment A	$100,000	Nearest dollar	Section 8 PBRA, 202/8, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO
Threshold above which imputed returns must be calculated on net family assets	24 CFR §§ 5.609(a)(2) and (b)(1)	Attachment F	$50,000	Nearest dollar	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC, HCV, Public Housing,

					Section 8 Mod Rehab, Section 8 Mod Rehab SRO
Threshold above which the total value of non-necessary personal property is included in net family assets	24 CFR § 5.603(b) *Net family assets*	Attachment F	$50,000	Nearest dollar	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO
The amount of net assets for which the PHA/MFH Owner may accept self-certification by the family	24 CFR § 5.618(b)(1) 24 CFR § 5.659(e) 24 CFR § 92.203(e)(1) 24 CFR § 93.151(e)(1) 24 CFR § 882.515(a) 24 CFR § 882.808(i)(1) 24 CFR § 960.259(c)(2) 24 CFR § 982.516(a)(3)	Attachment F	$50,000	Nearest dollar	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO
Mandatory deduction for elderly and disabled families	24 CFR § 5.611(a)(2)	Attachment C	$525	Next lowest multiple of $25	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO
Mandatory deduction for a dependent	24 CFR § 5.611(a)(1)	Attachment C	$480	Next lowest multiple of $25	Section 8 PBRA, 202/8, 202/811 PRAC, 236

					IRP, 811 PRA, SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO
Income exclusion for earned income of dependent full-time students	24 CFR § 5.609(b)(14)	Attachment G	$480	Next lowest multiple of $25	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO
Income exclusion for adoption assistance payments	24 CFR § 5.609(b)(15)	Attachment G	$480	Next lowest multiple of $25	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO

HUD will annually publish the recalculated inflationary-adjusted items to HUD's Policy Development and Research Web site, HUDUser. The new amounts will become effective January 1 of the following year.

PHAs/MFH Owners must use the adjusted levels post to HUD User for income and asset calculations effective on or after January 1 of the following year. Note that it will be particularly important for PHAs/MFH Owners who begin reexaminations 90 to 120 days in advance of the effective date of the reexamination to update their documents in a timely manner, because several of these figures must be known from the outset of the reexamination. For example, when a PHA/MFH Owner issues a reexamination notice and requests documents from a family, they must be able to provide a form for the self-certification of assets that includes the updated threshold value of net family assets above which the family may not self-certify.

ATTACHMENT I: TOPIC: INTERIM REEXAMINATIONS

Regulations

24 CFR §§ 5.567(c)(1); 882.515(b)(1); 960.257(b)(1); 982.516(c)(1); 891.105; 891.410(g); and 891.610(g)

Applicable Programs

HUD Multifamily Housing	HUD Multifamily Housing	Public and Indian Housing
Section 8 (Project Based Rental Assistance)	Section 202/8, Section 202/811 PRAC, Section 236 IRP, Section 811 PRA[I1], SPRAC	HCV (including Project-Based vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO
Yes	Yes	Yes

Summary

A family may request an interim determination of family income or composition because of any changes since the last determination. The PHA/MFH Owner must conduct any interim reexamination within a reasonable period of time after the family request or when the PHA/MFH Owner becomes aware of a change in the family's adjusted income that must be processed in accordance with the final rule. What qualifies as a "reasonable time" may vary based on the amount of time it takes to verify information, but the PHA/MFH Owner generally should conduct the interim reexamination not longer than 30 days after the PHA/MFH Owner becomes aware of changes in income.

The following subsection focuses on HOTMA's revisions to income reexamination requirements. The final rule changes the conditions under which interim reexaminations must be conducted, codifies when interim reexaminations should be processed and made effective, and requires related changes for annual reexaminations and streamlined income determinations. When the PHA/MFH Owner determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income. For example, if the family is reporting a decrease in annual adjusted income that is more than 10 percent, but the family also had a change in assets that would result in a change in income, the change in assets must also be reviewed. HUD recommends as a best practice that PHAs/MFH Owners maintain documentation of all reported decreases in annual adjusted income in the family's file, including those that did not result in an interim reexamination. HUD also recommends reviewing the applicable regulations to ensure that any program-specific reexamination requirements are addressed[I2].

[I1] HUD is applying 24 CFR § 5.657 to 811 PRA families pursuant to Section 2.4(a)(1) of the Rental Assistance Contract (RAC) Part II.

[I2] For example, see 24 CFR § 891.410(g) and § 891.610(g)(3)

I.1 Decreases in Adjusted Income

Regulations: 24 CFR §§ 5.657(c)(2); 882.515(b)(2); 891.105; 891.410(g)(2); 891.610(g)(2); 960.257(b)(2); and 982.516(c)(2)

Summary: A family may request an interim determination of family income for **any** change since the last determination. However, the PHA/MFH Owner may decline to conduct an interim reexamination of family income if the PHA/MFH Owner estimates that the family's adjusted income will decrease by an amount that is less than 10 percent of the family's annual adjusted income. PHAs/MFH Owners have the discretion to set a lower percentage threshold, in which case that lower percentage threshold must be included in the ACOP, Administrative Plan, or Tenant Selection Plan, as applicable.

PHAs/MFH Owners must conduct an interim reexamination of family income when the PHA/MFH Owner becomes aware that a family's annual adjusted income has changed by an amount that the PHA/MFH Owner estimates will result in a decrease of 10 percent or more in annual adjusted income or a lower threshold set by HUD or by a PHA/MFH Owner in their ACOP, Administrative Plan, or Tenant Selection Plan, as applicable. In addition to decreases in family income, increases in deductions may produce a sufficient decrease in adjusted income to support an interim reexamination effective January 1, 2024, or later.

HUD is using its discretion, as authorized by HOTMA, to establish a lower threshold through notice to process interim reexaminations under certain circumstances. Specifically, HUD is requiring PHAs/MFH Owners to apply a 0-percent threshold and to process an interim reexamination when there is a decrease in family size attributed to the death or permanent move-out from the assisted unit of a family member during the period since the family's last reexamination that results in a decrease in adjusted income of any amount. If there is no change/decrease in adjusted income as a result of the decrease in family size, then a non-interim transaction is processed instead of an interim reexamination. This 0-percent threshold for interim reexamination applies only to decreases in family size that result in a **decrease** in adjusted income. If the net effect of the changes in annual adjusted income due to a decrease in family size results in an **increase** in annual adjusted income, then PHA/MFH Owner will process the removal of the household member(s) as a non-interim reexamination transaction **without** making changes to the family's annual adjusted income.

Example I1: Interim Reexaminations / Decreases in Annual Adjusted Income

Scenario A: A family with an annual adjusted income of $9,600 experiences a change in household composition and becomes eligible for two dependent deductions totaling $960, resulting in a 10-percent decrease in the family's adjusted income. The $960 decrease in the family's adjusted income would require an interim reexamination, because the income decrease meets the 10-percent threshold for an interim reexamination.

Scenario B: A family experiences an increase in deductible child-care expenses from $0 to $12,000 annually. Before the change, their annual adjusted income was $40,000. Since the child-care expense deduction results in a greater than 10-percent reduction in annual adjusted income, an interim reexamination is required.

Scenario C: A family with an adjusted income of $9,600 adds a dependent family member with no income. This would result in an adjusted income decrease of $480 due to the dependent deduction. The decrease does not meet the 10-percent threshold of the family's adjusted income, and because this is a family member joining the assisted unit (as opposed to a decrease a family size). The PHA/MFH Owner is not required to conduct an interim reexamination. However, the PHA/MFH Owner has adopted a policy that has decreased the threshold from a 10-percent change to a 5-percent change, therefore the decrease would meet the threshold, triggering an interim reexamination.

Scenario D: A family member moved out of the assisted unit. The family's adjusted income prior to the change in household composition was $20,000, but that number decreased to $18,000 when the family member moved out. Since HUD requires PHAs/MFH Owners to process decreases in adjusted income greater than 0 percent due to decreases in family size, the PHA/MFH Owner must process an interim reexamination.

Scenario E: A family member moves into the assisted unit who receives $20,000 in pension income (which is more than 10% of the household's adjusted income). At the same time, the head of household got a new job that increases the household's income by $15,000 per year. The PHA/MFH Owner will process the increase in pension income due to the new household member but will not include the head of household increase in earned income until the next annual reexamination.

PHA/MFH Owner Discretion: PHAs/MFH Owners may establish a percentage threshold lower than 10 percent of annual adjusted income for processing interim reexaminations due to decreases in a family's annual adjusted income. PHAs/MFH Owners must identify in their ACOPs, Administrative Plans, and Tenant Selection Plans, as applicable, the percentage threshold they will use for conducting interim reexamination decreases of a family's annual adjusted income.

PHAs/MFH Owners **are not permitted** to establish a dollar-figure threshold amount instead of a percentage threshold. PHAs/MFH Owners may establish policies to round calculated percentage decreases up or down to the nearest unit (e.g., a calculated decrease of 9.5 percent may be rounded up to 10 percent).

I.2 Increases in Adjusted Income

Regulations: 24 CFR §§ 5.657(c)(3); 882.515(b)(3); 960.257(b)(3); and 982.516(c)(3); 891.105; 891.410(g)(2); and 891.610(g)(2)

Summary: PHAs/MFH Owners must conduct an interim reexamination of family income when the PHA/MFH Owner becomes aware that the family's adjusted income has changed by an amount that the PHA/MFH Owner estimates will result in an increase of 10 percent or more in annual adjusted income or another amount established through a HUD notice, with the following exceptions:

- PHAs/MFH Owners **may not** consider any increases in **earned income** when estimating or calculating whether the family's adjusted income has increased, unless the family has previously received an interim reduction during the same reexamination cycle; and
- PHAs/MFH Owners may choose not to conduct an interim reexamination during the last three months of a certification period if a family reports an increase in income within three months of the next annual reexamination effective date.

Note: Families who delay reporting income increases until the last three months of their certification period may be subject to retroactive rent increases in accordance with the PHA/MFH Owner's policies.

PHAs/MFH Owners **must not** process interim reexaminations for income increases that result in less than a 10-percent increase in annual adjusted income. When the family previously received an interim reexamination for a decrease to annual adjusted income during the same annual cycle, a PHA/MFH Owner has the discretion to consider or ignore a subsequent increase in **earned** income for the purposes of conducting an interim reexamination. PHAs/MFH Owners must identify in their ACOPs, Administrative Plans, and Tenant Selection Plans, as applicable, if they perform interim reexaminations for **earned** income increases that result in a 10-percent increase in annual adjusted income. If a PHA/MFH Owner has a policy of considering increases in earned income after an interim conducted for a decrease in income, and the family's adjusted income has increased by 10 percent or more, the PHA/MFH Owner must conduct an interim reexamination in accordance with local policies. Conversely, PHAs/MFH Owners that adopt local policies to never consider increases in **earned** income must not perform an interim reexamination.

A series of smaller reported increases in adjusted income may cumulatively meet or exceed the 10-percent increase threshold, at which point the PHA/MFH Owner must conduct an interim reexamination. When an increase of any size is reported by a family, it is a recommended best practice for the PHA/MFH Owner to note the reported increase in the tenant file.

Example I2: Interim Reexaminations / Increases in Annual Adjusted Income

Scenario A: The Martinez family's annual reexamination is due on 11/1/2024. The family no longer has child-care expenses for their three children. The family stopped paying for daycare as of 8/31/2024 and reported the change (and certified no other changes to annual household income or expenses) to the PHA/MFH Owner on 9/7/2024, resulting in an estimated 15-percent increase in the family's annual adjusted income. Although 15 percent is well above the 10-percent threshold, the PHA/MFH Owner does not process an interim reexamination, because they have a policy to not process changes reported within three months of the next annual reexamination.

Scenario B: The Allen family had an annual adjusted income of $29,000 as of their last annual reexamination effective 5/1/2024. The family experienced the following changes to income and household composition since 5/1/2024:

- In July, the Allen family's eldest child, Kristina Allen (age 20), starts going to college full-time on a Pell Grant. Kristina is not employed, nor does she receive any other type of student financial assistance. The family now qualifies for a $480 dependent deduction, because full-time students are considered dependents.
- The family reports Kristina's student status to the PHA/MFH Owner, which noted the change in the family's file. The PHA/MFH Owner is not allowed to perform an interim reexamination, because the dependent deduction represents a 1.7-percent decrease in the family's annual adjusted income, and the PHA/MFH Owner did not establish a threshold lower than 10 percent for interim decreases in income.
- In October, the family added an adult family member, Tom Smith, to the household. The new adult family member receives a pension of $275 monthly, or $3,300 annually.

The PHA/MFH Owner determined that the Allen family's new annual adjusted income is $31,820, accounting for both the addition of Tom's pension income and the deduction of the full-time student dependent allowance for Kristina. The Allen family's annual adjusted income increased a total of $2,820, or only 9.7 percent. Since this decrease is below the 10-percent threshold, the PHA/MFH Owner will not conduct an interim reexamination. Instead, they will process a non-interim transaction to add Tom to the family without changing the family's annual adjusted income effective 10/1/2024.

Scenario C: The Nguyen family's last annual reexamination was 4/1/2024. In June 2024, Patrick Nguyen lost his job, and the family's adjusted income fell from $25,000 to $13,000. The PHA/MFH Owner conducted an interim reexamination for the decrease in income. In November 2024, Kelly Nguyen finds a job, and the family's adjusted income rises to $18,000. The PHA/MFH Owner has a policy of considering increases in earned income when an interim reexamination has been performed for a decrease in income. Since the family's adjusted income has increased by more than 10 percent when including earned income, and the family previously received an interim reduction during the same reexamination cycle, the PHA/MFH Owner will conduct an interim reexamination for the increase.

Scenario D: The Mosberg family had an annual adjusted income of $35,909 based on earned income (and two dependent deductions) as of the last annual reexamination effective 6/1/2024. The family experienced the following changes to income since 6/1/2024:

- In August, Libby reported she received a raise at work, increasing her annual earned income by $2,650. She also recently started receiving monthly child support payments of $150, or $1,800 annually. She reported no other changes to the PHA/MFH Owner. While the **combined** increase of earned income (wages) and unearned income (child support) is a 12.3-percent increase in annual adjusted income since the 6/1/2024 annual reexamination, the PHA/MFH Owner must look at the earned and unearned income changes independently to determine if an interim reexamination should be performed. The earned income is about 7 percent of the increase, and the unearned income is approximately 5 percent of the total 12.3-percent increase.

The PHA/MFH Owner documented in the tenant file that the family reported the change, but an interim reexamination was **not** performed, because the 5-percent increase in annual adjusted income based on **unearned** income does not meet the 10-percent threshold. Further, the PHA/MFH Owner may not perform an interim reexamination for Libby's 7-percent increase in annual adjusted income based on **earned** income, because an interim reexamination for an income decrease during the reexamination cycle was not completed **and** it does not meet the 10-percent threshold to perform an interim. Note: Even if Libby's change in earned income had exceeded 10 percent of her annual income, the PHA/MFH Owner may not perform an interim reexamination, because there was no prior interim reexamination for a decrease in income.

In November, Libby reported that her monthly child support payments increased again, from $150 to $325. She certified no other changes to income or deductions. Libby's annual **unearned** income from child support of $3,900 is now a 10.8-percent increase in annual adjusted income (based on the effective 6/1/2024 annual reexamination), so the PHA/MFH Owner **must** perform an interim reexamination, but only for the **unearned** child support income. The PHA/MFH Owner will continue to disregard the increased **earned** income reported by the family until the Mosberg's next annual reexamination.

PHA/MFH Owner Discretion: PHAs/MFH Owners have discretion on the following policies:

- Whether the PHA/MFH Owner will conduct interim reexaminations for income increases reported by families within the last three months of a family's reexamination period; and
- Whether the PHA/MFH Owner will count increases in earned income when estimating or calculating whether the family's adjusted income has increased and whether they will conduct interim reexaminations when families previously

underwent interim reexaminations for decreases in income (both earned and unearned income).

PHAs/MFH Owners must establish policies for the above-discretionary items in their ACOPs, Administrative Plans, and Tenant Selection Plans, as applicable.

PHA/MFH Owner Discretion: None.

I.3 Interim Reexaminations to Determine Public Housing Over-Income Status

Regulations: 24 CFR § 960.507

Summary: Regardless of changes in adjusted annual income, in some circumstances PHAs are required to conduct interim reexaminations of Public Housing families to determine whether they continue to exceed the income limit. When a PHA makes an initial determination that a Public Housing family is over-income during an interim reexamination, the PHA must conduct a second interim reexamination 12 months after the over-income determination, and then again 12 months after the second over-income determination, unless the family's income falls below the over-income limit during the 24-month period.

Per 24 CFR 960.507(c), PHAs are required to conduct income examinations of Public Housing families who have been determined to exceed the over-income limit at specific intervals. This continued evaluation of the family's over-income status requires the PHA to notify any family that exceeds the over-income limit that they remain over the income limit, even if the family is paying the flat rent. (24 CFR 960.253). The PHA must conduct an income examination 12 months after the initial over-income determination to determine and provide notification if the family remains over-income, unless the PHA determined the family's income fell below the over-income limit since the initial over-income determination. The PHA must again conduct an income examination and provide notification 24 months after the initial over-income determination, unless the PHA determined the family's income fell below the over-income limit since the second over-income determination. An interim income reexamination to determine if a Public Housing family remains over-income does not reset the family's normal annual reexamination date.

See Notice PIH 2023–03 (HA) for additional guidance on the required reexaminations and notice for over-income Public Housing families.

Example I3: Interim Reexamination to Public Housing Over-Income Status

Scenario A: Uninterrupted Grace Period: The Blayney Family

In June 2024, the PHA processed an interim reexamination for the Blayney family effective 7/1/2024 due to an increase in the family's annual adjusted income of 10 percent or more. The PHA sent written notification of its initial determination that the family's income exceeds the applicable over-income limit. The 24-month grace period starts.

The PHA must conduct an interim reexamination 12 months later, or by 7/1/2025, to determine if the Blayney family remains over-income, even if the family is paying a flat rent. The PHA must notify the Blayney family that their income has exceeded the over-income limit for 12 consecutive months.

After completion of the 7/1/2025 interim reexamination, the Blayney family's income continued to exceed the applicable over-income limit for an additional 12 consecutive months. The PHA must

conduct a second interim reexamination, even if the family is paying flat rent, 24 months from the initial determination, or by 7/1/2026, to determine if the family remains over-income.

At the 7/1/2026 interim reexamination, the Blayney family's income continued to exceed the applicable over-income limit. The PHA must either terminate their tenancy in no more than six months from the end of the 24-consecutive-month grace period, by 1/1/2027, or charge them the alternative non–public housing rent (at the next lease renewal or in no more than 60 days after the final notice, whichever is sooner), depending on the PHA's continued occupancy policies.

Scenario B: Interrupted Grace Period: The Morrison Family

The Morrison family experienced an income increase that resulted in an interim reexamination effective 2/1/2024. The family was sent the required written notification no later than 30 days after the PHA's initial determination of the family's over-income status. The 24-month grace period starts.

The PHA must conduct an interim reexamination 12 months later, or by 2/1/2025, to determine if the family remains over-income, even if the family is paying a flat rent.

After completion of the interim reexamination effective 2/1/2025, the Morrison family remained over the applicable over-income limit. The PHA must conduct a second interim reexamination, even if the family is paying a flat rent, 24 months from the initial determination, or by 2/1/2026, to determine if the family remains over-income. However, at a regularly scheduled annual reexamination effective 5/1/2025, the family is determined to no longer be over-income. This is prior to the expiration of the 24-month grace period on 2/1/2026. Thus, the grace period no longer applies, and the family remains an income-eligible PH program participant.

If the family is determined to be over-income again in the future, they would be entitled to a new 24-consecutive-month grace period.

PHA Discretion: None.

I.4 Non-Interim Reexamination Transactions

Regulations: 24 CFR §§ 5.657(c)(2) 891.105; 891.410(g)(2); and 891.610(g)(2)

Summary: Families may experience changes within the household that do not trigger an interim reexamination under HOTMA but still need to be reported in a non-interim reexamination submission to HUD. In these cases, PHAs/MFH Owners will submit a separate, new action code on form HUD–50058/HUD–50059. Further instructions on the use of this action code will be provided along with supplemental guidance on other revisions to forms HUD–50058/HUD–50059. The code will be used for the following transaction types when an interim reexamination is not triggered under the final rule:

- Adding or removing a hardship exemption for the child-care expense deduction;
- Updating or removing the phased-in hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction (the phased-in relief will begin at an eligible family's first annual or interim reexamination, whichever is sooner, after January 1, 2024);
- Adding or removing general hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction;
- Adding or removing a minimum rent hardship;
- Adding or removing a non-family member (i.e., live-in aide, foster child, foster adult);

- Ending a family's EID or excluding 50 percent (decreased from 100%) of a family member's increase in employment income at the start of the second 12-month EID period.
- Adding a family member and the **increase in adjusted income** does not trigger an interim reexamination under the final rule;
- Removing a family member and the **increase in adjusted income** does not trigger an interim reexamination under the final rule;
- Adding/updating a family or household member's Social Security number; and
- Updating a family member's citizenship status from eligible to ineligible or vice versa, resulting in a change to the family's rent and/or utility reimbursement, if applicable (i.e., family begins receiving prorated assistance or previously prorated assistance becomes full assistance), or updating the prorated rent calculation due to the addition or removal of family members in household with an ineligible noncitizen(s).

HCV Program Only:

- Processing contract rent changes that do not correspond with an interim or annual reexamination (including PBV rent increases);
- Implementing an update to the payment standard that does not correspond with an interim or annual reexamination.

Note: PHAs/MFH Owners will make all other changes to assets, income, and deductions at the next annual or interim reexamination of income, whichever is sooner.

I.5 Policies for Families to Report Changes to Annual Adjusted Income or Household Composition

Regulations: 24 CFR §§ 5.657(c)(4); 882.515(b)(1)–(4); 882.808(i)(4); 891.105; 891.410(g)(2); 891.610(g)(2); 960.257(b)(4); and 982.516(d)

Summary: PHAs/MFH Owners must require families to report **household composition changes**; however, PHAs/MFH Owners determine the timeframe in which reporting happens. PHAs/MFH Owners must develop policies that describe when and under what conditions families must report **changes in annual adjusted income** consistent with the new requirements for processing interim reexaminations. PHAs/MFH Owners are responsible for educating families on the requirements for reporting changes. Families are responsible for reporting these changes to the PHA/MFH Owner. It is the PHA's/MFH Owner's responsibility to track all reported changes to a family's annual adjusted income to ensure that the PHA/MFH Owner is correctly processing interim reexaminations in accordance with HUD's requirements.

A PHA's/MFH Owner's policies may require families to report only changes that the family estimates meet the threshold for an interim reexamination, and the PHA/MFH Owner must determine if an interim reexamination is necessary. Alternatively, PHAs/MFH Owners may establish policies requiring that families report all changes in income and household composition, and the PHA/MFH Owner will subsequently determine if the change requires an interim reexamination.

PHA/MFH Owner Discretion: PHAs/MFH Owners have the discretion to develop specific reporting policies that describe which changes must be reported to the PHA/MFH Owner and the timeline for reporting the change. For example, PHAs/MFH Owners may develop policies stipulating that families are not required to report **any** income increases that become effective within the last three months of the family's certification period, or PHAs/MFH Owners may develop policies requiring families to report all changes to household composition, income, and deductions within 10 days of the change.

I.6 Processing Time Period for Interim Reexaminations

Regulations: 24 CFR §§ 5.657(c)(1); 882.515(b)(1); 891.105; 891.410(g)(2); 891.610(g)(2); 960.257(b)(1); and 982.516(c)(1)

Summary: The updated regulations codified long-standing guidance on how long PHAs/MFH Owners should take to process an interim reexamination.

Families may request an interim determination of income or household composition because of any changes since the last determination. While the PHA/MFH Owner may decline to conduct an interim reexamination of family income if they estimate the family's annual adjusted income will change by less than 10 percent, when the PHA/MFH Owner conducts an interim reexamination, it must be conducted within a reasonable period after the family's request or after the PHA/MFH Owner becomes aware of an increase in the family's adjusted income. What qualifies as a "reasonable time" may vary based on the amount of time it takes to verify information, but the PHA/MFH Owner generally should conduct the interim reexamination not longer than 30 days after the PHA/MFH Owner becomes aware of changes in income.

PHA/MFH Owner Discretion: None.

I.7 Effective Date of Interim Rent Changes

Regulations: 24 CFR §§ 5.657(c)(5); 882.515(b)(4)–(b)(5); 891.105; 891.410(g)(2); 891.610(g)(2); 960.257(b)(6); and 982.516(c)(4)

Summary: The updated regulation codified long-standing guidance on when interim reexaminations are made effective.

- **Changes Reported Timely:** If the family has reported a change in family income or composition in a timely manner according to the PHA/MFH Owner's policies, then the PHA/MFH Owner must provide the family with a 30-day advance notice of any rent increases, and such rent increases will be effective the first day of the month beginning after the end of that 30-day period.

  If the tenant has complied with the interim reporting requirement and the tenant's rent is anticipated to decrease, rent decreases will be effective on the first day of the month after the date of the actual change leading to the interim reexamination of family income. This means the decrease will be applied retroactively.

- **Changes Not Reported Timely:** If the family has failed to report a change in family income or composition in a timely manner according to the PHA/MFH Owner's policies, PHAs/MFH Owners must implement any resulting rent increases

retroactively to the first day of the month following the date of the change leading to the interim reexamination of family income.

Any resulting rent decrease must be implemented no later than the first rent period following completion of the reexamination. The PHA/MFH Owner may choose to adopt a policy that would make the effective date of an interim reexamination retroactive to the first of the month following the date of the actual decrease in income as opposed to the first of the month following completion of the reexamination. PHAs/MFH Owners may also choose to establish conditions or requirements for when such a retroactive application would apply (e.g., where a family's ability to report a change in income promptly may have been hampered due to extenuating circumstances such as a natural disaster or disruptions to the PHA/MFH Owner management operations).

PHAs/MFH Owners that choose to adopt such policies must ensure the earliest date that the retroactive decrease is applied is the later of the first of the month following the date of the change that led to the interim reexamination, or the first of the month following the most recent previous income examination (i.e., most recent interim or annual reexamination or the family's initial examination if that was the family's only income examination before the interim reexamination in question).

In applying a retroactive change in rent or family share as the result of an interim reexamination, the PHA/MFH Owner must clearly communicate the effect of the retroactive adjustment to the family so that there is no confusion over the amount of the rent that is the family's responsibility. In the HCV and Moderate Rehabilitation/SRO programs, the PHA must also clearly communicate the effect of the retroactive adjustment to the owner as well. These policies may reduce the potential hardship on families and eliminate or significantly reduce the amount a family may owe the PHA for back rent if the family has had difficulty in making timely rent payments during the time between the loss of income and the interim reexamination.

An exception to the requirement that a PHA/MFH Owner implement resulting rent increases retroactively to the first of the month following the date of the change leading to the interim reexamination exist if a PHA/MFH Owner failed to process a family's interim reexamination because the family did not timely report an income decrease, as illustrated in example I4, scenario D, below.

Example I4: Effective Date of Interim Rent Changes

Scenario A: The Miller family had a decrease in family income that met the threshold due to the loss of a job on 6/2/2024. They reported the decrease to the PHA/MFH Owner in accordance with the PHA/MFH Owner's policies on 6/15/2024. The interim reexamination must be effective 7/1/2024, regardless of when the PHA/MFH Owner processes the interim reexamination.

Scenario B: The Leon family had an increase of 10 percent or more in annual adjusted income on 6/1/2024 due to receiving a new type of benefit income. The increased income meets the threshold to require an interim. They reported the increase to the PHA/MFH Owner in accordance with local policies on 6/20/2024. The PHA/MFH Owner did not process the interim reexamination until 7/11/2024, so the effective date of the interim reexamination is 9/1/2024 to give the family the required 30-day notice of the increase in total tenant portion.

Scenario C: The Nguyen family had a family member join the household, thereby increasing the annual adjusted income by 10 percent or more due to the new member's Social Security income starting on 8/1/2024. The increased income meets the threshold to require an interim. However, the change in income was not reported to the PHA/MFH Owner until 9/15/2024. The PHA/MFH Owner has a policy requiring a family to report changes in family income within 30 days. Because the family failed to alert the PHA/MFH Owner of the increase in income in accordance with the PHA/MFH Owner's policy, the increased income is effective retroactive to 9/1/2024, the first of the month following the date of the income change.

Scenario D: The Housseini family's current annual reexamination is effective on 2/1/2024. A member of the Housseini family lost their job on 1/2/2024, but the family failed to report the change until 4/5/2024. If the PHA/MFH Owner has a written policy allowing for retroactive rent decreases even when the family does not report changes timely, the retroactive rent decrease could be applied on 3/1/2024 (the first of the month following the family's most recent previous income examination).

PHA/MFH Owner Discretion: PHAs/MFH Owners must establish policies describing when and under what conditions a family is required to report changes in family income or composition in order to meet the "timely manner" requirement. PHAs/MFH Owners must update their Administrative Plans, ACOPs, or Tenant Selection Plans, as applicable, to include these policies and must communicate them clearly to participating families.

PHAs/MFH Owners may adopt a policy to apply rent decreases retroactively for circumstances in which families fail to report changes in a timely manner. A retroactive rent decrease may not be applied prior to the later of either the first of the month following the date of the actual decrease in income, or the first of the month following the most recent previous income examination. PHAs/MFH Owners may establish additional criteria to describe the conditions under which retroactive decreases will be applied (e.g., the kinds of extenuating circumstances that may inhibit timely reporting). In all cases of retroactive application, the PHA/MFH Owner must clearly communicate to the family how the retroactive adjustment will affect their responsibility for rent. In the HCV and Moderate Rehabilitation programs, the PHA must also clearly communicate the impact of the retroactive adjustment to the owner.

I.8 Streamlined Income Determination

Regulation: 24 CFR §§ 5.609(c)(2)(i); 5.657(d); 891.105; 891.410(g)(4); 891.610(g)(4); 960.257(c); and 982.516(b)

Summary: HOTMA did not update or otherwise change the streamlined income determination provision codified in the FAST Act[I3] and in HUD's regulations found in 24 CFR §§ 5.657(d), 960.257(c), and 982.516(b); however, PHAs/MFH Owners should be aware that the adjustments of non-fixed income sources at annual reexamination using third-party verification must follow the HOTMA income calculation rules outlined in Attachment B (Calculating Income) of this notice.

Under current program regulations, PHAs/MFH Owners may elect to apply a streamlined income determination for families receiving fixed income[I4]using the methodology below.

[I3] P.L. 114–94.

[I4]24 CFR §§ 5.657(d)(2); 960.257(c)(2); and 982.516(b)(2); 891.410(g)(4); and 891.610(g)(4).

For any income determined pursuant to a streamlined income determination, a PHA/MFH Owner must obtain third-party verification of all income amounts every 3 years.

When **90 percent or more** of a family's unadjusted income consists of fixed income, owners using streamlined income determinations must apply a COLA or COLAs to the family's fixed-income sources, provided that the family certifies both that 90 percent or more of their unadjusted income is fixed income and that their sources of fixed income have not changed from the previous year. Sources of non-fixed income need not be adjusted and must not be adjusted by a COLA, but PHAs/MFH Owners may choose to adjust sources of non-fixed income by the amount determined on the basis of third-party verification. PHAs/MFH Owners 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 2 and 3. Adjustments to non-fixed income must be calculated in accordance with section 14.2 (Annual Reexamination) of this notice.

When **less than 90 percent** of a family's unadjusted income consists of fixed income, owners using streamlined income determinations must apply a COLA to each of the family's sources of fixed income. Owners must determine all other income pursuant to section 14.2 (Annual Reexaminations) of this notice.

The table below explains the applicable PHA/MFH Owner action at each point in time in the streamlining cycle.

Table I1: PHA/MFH Owner Action at Point in Time in Streamlining Cycle

Point in Time in Streamlining Cycle	PHA/MFH Owner Action
Year 1	PHA/MFH Owner completes a Move in, Initial Certification (MFH Only) or Annual Reexamination consistent with the regulations on reexaminations.
Years 2 and 3	PHA/MFH Owner completes an Annual Reexamination with the following streamlined income determination for each type of source: • **Fixed Income:** Apply inflation adjustment factor; PHA/MFH Owner does not collect third-party verification. • **Non-fixed income when fixed income is more than 90 percent of unadjusted income:** PHA/MFH Owner has discretion to either adjust the income using third-party verification or use the previous year's calculation. • **Non-fixed income when fixed income is less than 90 percent of unadjusted income:** PHA/MFH Owner must adjust the income using third-party verification. • **Assets and Deductions:** PHA/MFH Owner completes verification and calculation of assets and deductions.
Year 4	Three-year cycle starts over.

PHA/MFH Owner Discretion: PHAs/MFH Owners have the discretion to implement streamlined income determinations under current program regulations.

I.9 Impact of Interim Reexamination Requirements on Family Self-Sufficiency (FSS) Programs

Summary: PHAs/MFH Owners who operate FSS programs should note two effects that the new interim reexamination regulations will have on families participating in their FSS programs.

First, HOTMA requires that interim reexaminations must be conducted: (1) when a family's income decreases by at least 10 percent of their annual adjusted income, or such lower threshold established by a PHA/MFH Owner or by HUD through notice; or (2) when a family's income increases by at least 10 percent of their annual adjusted income or such other amount established by HUD through notice, except in certain circumstances as described earlier in paragraph I.2 (Increases in Adjusted Income) of this notice. PHAs/MFH Owners may not consider any increases in **earned income** when estimating or calculating whether the family's adjusted income has increased unless the family has previously received an interim reduction during the same reexamination cycle. Families participating in the FSS program are subject to these interim requirements, therefore their escrow accounts may not grow as their earnings increase throughout the year.

Second, the "Streamlining and Implementation of Economic Growth, Regulatory Relief, and Consumer Protection Act Changes to Family Self-Sufficiency Program" final rule states that the FSS contract of participation (COP) will generally expire 5 years **from the date of the family's first re-certification of income after** the effective date of the FSS COP. The PHA/MFH Owner may not perform an interim reexamination of annual income when enrolling a family in the FSS program unless the family experienced a change in annual adjusted income that meets the threshold for conducting an interim reexamination under the HOTMA final rule. Families for whom their first reexamination of income does not occur until their regularly scheduled annual reexamination will not have the opportunity to begin escrowing their increased earnings until that time and may have fewer escrow increases over the life of the 5-year contract.

Although families participating in FSS may experience fewer escrow increases under the HOTMA final rule, the revised interim reexamination regulations may provide these families the opportunity to use their increased earnings to realize other short- or long-term goals outside of the scope of the FSS program, such as investing in a hobby, going on a vacation with family, purchasing a car, etc.

PHA/MFH Owner Discretion: None.

ATTACHMENT J: TOPIC: VERIFICATION

Regulations

24 CFR §§ 5.216(g)(1); 5.230; 5.230(c)(5)(iii); 5.232; 24 CFR 5.232(c); 5.233; 5.240(c); 5.609(c)(3); 5.659(d); 891.105; 891.410(b)-(c) and (g); 891.610(b)-(c) and (g); 960.259(c); and 982.516(a)(2)

Applicable Programs

HUD Multifamily Housing	HUD Multifamily Housing	Public and Indian Housing
Section 8 (Project Based Rental Assistance)	Section 202/8, Section 202/811 PRAC, Section 236 IRP, Section 811 PRA, SPRAC	HCV (including Project-Based vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO
Yes	Yes	Yes

Summary

The final rule updated verification of income requirements in 24 CFR §§ 5.230; 5.232; 5.233; 5.609; and 5.659.

Subtopics

J.1 Authorization for the Release of Information (Forms HUD–9886/HUD–9887)

Regulations: 24 CFR §§ 5.230; 5.232; 891.105; 891.410(b)-(c); and 891.610(b)-(c)

Summary: In accordance with the final rule, all applicants must sign the consent form at admission, and participants must sign the consent form no later than their next interim or regularly scheduled income reexamination. After an applicant or participant has signed and submitted a consent form either on or after January 1, 2024 (regardless of the PHA/MFH Owner's compliance date), they do not need to sign and submit subsequent consent forms at the next interim or regularly scheduled income examination except under the following circumstances:

- When any person 18 years or older becomes a member of the family;
- When a member of the family turns 18 years of age; and
- As required by HUD or the PHA in administrative instructions.

These consent forms contain provisions authorizing HUD and the PHA/MFH Owner to obtain necessary information for verification of an application or to maintain a family's assistance, including income information and tax return information. The executed consent forms will remain effective until the family is denied assistance, the assistance is terminated, or if the family provides written notification to the PHA/MFH Owner to revoke consent. If a family voluntarily leaves a HUD program, the family's assistance is considered to be terminated and the signed consent forms will no longer be in effect.

HUD will publish a new form HUD–9886–A and is updating forms HUD–9887 and HUD–9887–A (Fact Sheet) to conform with the final rule. HUD will include language in

the forms allowing PHAs/MFH Owners to obtain financial records from financial institutions whenever the PHA/MFH Owner determines that such a record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits.

PHA/MFH Owner Discretion: PHAs/MFH Owners have the discretion to establish policies around when family members must sign the consent forms when they turn 18 between reexaminations. PHAs/MFH Owners must establish these policies in their ACOPs, Administrative Plans, and Tenant Selection Plans, if requiring family members to sign consent forms at intervals other than at reexamination.

J.2 Revocation of Consent

Regulations: 24 CFR §§ 5.230(c)(5)(iii); 24 CFR 5.232(c); 891.105; 891.410(g)(3)(ii); and 891.610(g)(3)(ii)

Summary: The executed consent forms will remain effective until the family is denied assistance, the assistance is terminated, or if the family provides written notification to the PHA/MFH Owner to revoke consent. Revocation of consent or refusal to sign the consent forms prohibits the PHA/MFH Owner from requesting and accessing income information and financial records, including pulling EIV reports and using the EIV data to verify income (although the data matches between HUD and other agencies will continue to occur automatically if the family is not terminated from the program). PHAs/MFH Owners will not be able to process interim or annual reexaminations of income, including when a family's income decreases and the family requests an interim reexamination to decrease tenant rent, without the family's executed consent form(s).

Families have the right to revoke consent by providing written notice to the PHA/MFH Owner; however, revoking consent may result in termination of assistance or denial of admission, if the PHA/MFH Owner has a policy that the revocation of consent will result in termination of assistance or denial of admission. When PHAs/MFH Owners do not establish such a policy, the family is required to sign a new consent form by the next reexamination, whichever occurs first, in order to avoid termination of assistance or be reviewed for eligibility for admission. PHAs/MFH Owners must explain to families the consequences, if any, of revoking their consent.

PHAs/MFH Owners must notify their local HUD office of a family's revocation of consent.

PHA/MFH Owner Discretion: PHAs/MFH Owners may decide whether revocation of a family's consent will result in termination of assistance or denial of admission. Such a policy must be included in the PHA/MFH Owner's Administrative Plan, ACOP, or Tenant Selection Plan, as applicable.

J.3 Mandated and Discretionary use of HUD's Enterprise Income Verification (EIV) System

Regulation: 24 CFR § 5.233

Summary: The regulation clarifies that PHAs/MFH Owners must use EIV to verify tenant employment and income information at annual and streamlined reexaminations of family composition and income. However, PHAs/MFH Owners are no longer required to

use EIV to verify tenant employment and income information during an interim reexamination of family composition and income.

PHAs/MFH Owners are still required to use EIV in its entirety, including using all of the required reports, such as the Existing Tenant Search and Income Reports, to verify tenant employment and income information at all other times.

Note: HUD intends to update the discrepancy logic for the MFH and Public Housing Income Discrepancy Reports and the Income Verification Tools (IVTs) to conform to the requirements of the final rule. PHAs/MFH Owners are not required to investigate discrepancies resulting from the MFH and Public Housing Income Discrepancy Reports and the IVT Tools until HUD updates the discrepancy logic. HUD will notify PHAs/MFH Owners when the new reports are ready for use.

Table J1 provides guidance on the frequency with which individual EIV reports must be utilized by a PHA/MFH Owner.

Table J1: Mandatory and Discretionary Use of EIV by PHAs/MFH Owners

Report Title	Report Description	Frequency of Use	PHAs/MFH Owners
Debts Owed to PHAs & Terminations	Allows users to access information concerning former tenants who left owing a debt to a PHA or who had their voucher terminated for cause.	At the time of processing an applicant family for admission, and to enter debt information or terminations for families who have ended program participation.	PHAs only Report does not exist in MFH EIV.
Deceased Tenants Report	Identifies tenants reported by Social Security Administration (SSA) as being deceased.	At least quarterly	PHAs/MFH Owners
Existing Tenant Search	Identifies applicants who may be receiving assistance at another Multifamily project or PIH location.	At the time of processing an applicant family for admission	PHAs/MFH Owners
Failed EIV Prescreening Report	Identifies tenants who have missing or invalid personal identifiers (last name, date of birth, SSN) in HIP/TRACS. These tenants will not be sent to SSA from EIV for the SSA identity test.	Monthly	PHAs/MFH Owners
Failed Verification Report (Failed SSA Identity Test)	Identifies tenants whose personal identifiers (last name, date of birth, SSN) do not match the SSA database.	Monthly	PHAs/MFH Owners

	*PHAs/MFH Owners that admit families using a self-certification of SSN must review the Failed SSN Verification Report monthly to identify and follow up on new issues.		
Identity Verification Report	Identifies tenants that, failed SSA verification, and failed EIV pre-screening.	Monthly	PHAs/MFH Owners
Income Discrepancy Report for MFH Programs	Identifies households where there is an income discrepancy in the wage, unemployment, and SSA benefit information reported in EIV and wage, unemployment, and SSA benefit information reported in TRACS for the period of income used for discrepancy analysis. The report serves as a tool to alert MFH Owners that there may be a discrepancy in the income reported by the tenant during the period of income used for the discrepancy analysis.	Must be used at annual reexamination. MFH Owners may use the report at other intervals, in accordance with the MFH Owner's written EIV policies and procedures. MFH Owners **are not** required to use the report at annual reexamination if they used Safe Harbor verification to determine the family's income at the last reexamination. *See note under Summary above about updates to the MFH Income Discrepancy Report.	MFH Owners
Income Information for PIH Programs Income Report for MFH Programs	Provides employment and income reported by HHS and SSA for each household member that passes the SSA identity test. Identifies tenants who: • May not have reported complete and accurate income information; and/or • May be receiving multiple subsidies.	Must be used at annual reexamination; not required at interim reexaminations. PHAs/Owners may use, if desired. PHAs/MFH Owners **are not** required to use at annual reexamination if they use Safe Harbor verification to determine the family's income.	PHAs/MFH Owners
Income Validation Tool Report for PIH Programs	Provides projections of discrepant income for wages, unemployment compensation, and SSA benefits pursuant to HUD's data sharing agreements with the Department of Health and Human Services	PHAs are required to obtain an EIV Income and Income Validation Tool Report for each family any time the PHA conducts an annual reexamination of family income and composition. PHAs may	PHAs

	(HHS) using the National Directory of New Hires (NDNH) database, and the SSA.	use the report at other intervals, in accordance with the PHA's ACOP or Administrative Plan. PHAs **are not** required to use the report at annual reexamination if they used Safe Harbor verification to determine the family's income at the last reexamination. *See note under Summary above about updates to the MFH and Public Housing Income Discrepancy Reports.	
Multiple Subsidy Report	Identifies tenants who may be receiving rental assistance at more than one location.	At least quarterly	PHAs/MFH Owners
New Hires Report	Identifies tenants who have new employment within the last six months. Report is updated monthly.	PHAs/MFH Owners must review this information at annual reexamination except when the PHA/MFH Owner uses Safe Harbor verification to determine the family's income. PHAs/MFH Owners that do not require families to undergo interim reexaminations (IRs) for income increases after an IR decrease do not need to review this report at all between a family's annual reexamination. If the PHA/MFH Owner's policy is to require an IR for increases in income after an IR decrease, then the PHA/MFH Owner must review the report quarterly after the family's IR decrease.	PHAs/MFH Owners
No Income Reported by HHS or SSA	Identifies tenants who passed the SSA identity test but where no income was reported by HHS or SSA. This scenario does not mean that the tenant does not have any income. PHAs/MFH Owners must	As identified in a PHA's ACOP or Administrative Plan or a MFH Owner's written EIV policies and procedures.	PHAs/MFH Owners

	obtain written, third-party verification of any income reported by the tenant.		
No Income Reported on 50059	Identifies households where there is no income listed on the HUD–50059.	As identified in MFH Owner's written EIV policies and procedures.	MFH Owners
Summary Report	Summary of household information from the current, active certification in the TRACS file at the time of the income match.	Must be used at annual reexamination; not required at interim reexaminations. MFH Owners may use the report at other intervals, if desired, as described in the MFH Owner's written EIV policies and procedures.,	MFH Owners

PHA/MFH Owner Discretion: PHAs/MFH Owners may choose to use EIV to verify tenant employment and income information at interim reexaminations of family composition and income. PHAs that choose to use EIV to verify income information at interim reexaminations must include this information in the PHA's ACOP and/or Administrative Plan. MFH Owners who choose to use EIV to verify tenant employment and income information at interim reexaminations must establish this policy in their written EIV policies and procedures. Any policy adopted by a PHA/MFH Owner must be applied consistently for all households.

J.4 Determination of Income Using Other Means Tested Public Assistance (i.e., "Safe Harbor")

Regulation: 24 CFR §§ 5.609(c)(3) and 891.105; 891.410(b)-(c) and (g); and 891.610(b)-(c) and (g)

Summary: PHAs/MFH Owners may 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 the following types of means-tested federal public assistance programs:

- The Temporary Assistance for Needy Families block grant (42 U.S.C. 601, et seq.).
- Medicaid (42 U.S.C. 1396 et seq.).
- The Supplemental Nutrition Assistance Program (42 U.S.C. 2011 et seq.).
- The Earned Income Tax Credit (26 U.S.C. 32).
- The Low Income Housing Tax Credit (26 U.S.C. 42).
- The Special Supplemental Nutrition Program for Woman, Infants, and Children (42 U.S.C. 1786).

- Supplemental Security Income (42 U.S.C. 1381 et seq.).
- Other programs administered by the Secretary.
- Other means-tested forms of federal public assistance for which HUD has established a memorandum of understanding.
- Other federal benefit determinations made by other means-tested federal programs that the Secretary determines to have comparable reliability and announces through a *Federal Register* notice.

If a PHA/MFH Owner 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 (i.e., the family members listed in the documentation must match the family's composition in the assisted unit, except for household members), and must state the amount of the family's annual income. The 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/MFH Owners 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 verification may be in the form of an award letter from the relevant federal program and must show that the family's income determination was made in the previous 12 months. **HUD clarifies in this notice that the verification will be considered acceptable if the documentation meets the criteria that the income determination was made within the 12 months prior to the receipt of the verification by the PHA/MFH Owner. This satisfies all verification date requirements for Safe Harbor income determinations.**

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/MFH Owner:

- Income determination effective date;
- Program administrator's signature date;
- Family's signature date;
- Report effective date; or
- Other report-specific dates that verify the income determination date.

The only information that PHA/MFH Owners are permitted to use to determine income under this Safe Harbor is the total income determination made by the federal means-test 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/MFH Owner for purposes of the HOTMA Safe Harbor provision. PHAs/MFH Owners are not permitted to mix and match Safe Harbor income determinations and other income verifications.

The amounts of unreimbursed reasonable attendant care expenses and child-care expenses deducted from a family's annual income, except for when a family is approved for a child-care expense hardship exemption, must still be capped by the amount earned by any family member who is enabled to work as a result of the expense. PHAs/MFH Owners are therefore required to obtain third-party verification of the applicable employment income and cap the respective expense deductions accordingly.

It is anticipated that in many cases tenants will provide the PHA/MFH Owner with the Safe Harbor third-party verification for the purpose of reexamination, rather than the PHA/MFH Owner mailing a verification form to the third party to complete. If the PHA/MFH Owner does not accept Safe Harbor documentation, is unable to obtain Safe Harbor documentation, or if the family disputes the other program's income determination, the PHA/MFH Owner must calculate the family's annual income using the methods established in § 5.609(c)(1) and (2).

If the PHA/MFH Owner uses a Safe Harbor determination to determine the family's income for an income examination (New Admission/Move Ins, Initial Certification for MFH programs only, Interim Reexamination, or Annual Reexamination), then the family is obligated to report changes in income that meet the reporting requirement and occur after the effective date of the PHA/MFH Owner's transaction. This might mean that a certain source of income was not considered in the family's income, because the other program does not consider the source to be income. For example, if the family begins receiving a new source of income on 2/1/2024 and the PHA/MFH Owner completed an annual reexamination effective 3/1/2024 using a Safe Harbor income determination, then the family does not need to report that change in income. If the family has a change in adjusted income in accordance with HUD's rules that occurs after 3/1/2024, when the Annual Reexamination was effective, then the family must report the change to the PHA/MFH Owner.

Example J1: Acceptable Verification of Safe Harbor

Background: A PHA/MFH Owner decides to implement the Safe Harbor provision, and their policy states that they will accept income determinations from the Supplemental Nutrition Assistance Program (SNAP). At the Smith family's annual reexamination interview, the Smiths provide the reexamination specialist an original print-out from the agency that administers SNAP benefits. The printout reflects the Smith's correct family size of 4, and current household composition, and it states the total amount of the family's earned income. The annual income is $19,500 ($812.50 x 24 semi-monthly pay periods). The print-out was dated 30 days prior to the PHA/MFH Owner's request, and the income was determined six months ago.

SNAP Budget Calculation (from State Department of Social Services)

Report Date: 05/17/2024

Head of Household: Smith, Hunter

Home Address: 123 Main Street, USA

Household members:

Last Name	First Name	Date of Birth	Relationship
Smith	Hunter	01/01/1974	Head of Household

Smith	Annabelle	06/18/1976	Spouse
Smith	Lola	05/17/2019	Daughter
Smith	Eric	05/17/2019	Son

Budget Calculation

Monthly Earned Income: $1,625

Total Unearned Income: $0

Standard Deduction: $112.50

Monthly child care/dependent care: $50

Allowable medical deductions: $0

Result: The PHA/MFH Owner may use this printout to determine the Smith's annual income for their annual reexamination. The PHA/MFH Owner lists $19,500 as the annual income for the family's reexamination ($1,625 monthly earned income + $0 unearned income x 12 months). The PHA/MFH Owner **does not** need to take any additional steps to verify or calculate gross annual income, including comparing the income determination to EIV data. The PHA would then verify and apply applicable deductions to calculate the family's annual adjusted income.

PHA/MFH Owner Discretion: PHAs/MFH Owners are not required to accept or use determinations of income from other federal means-tested forms of assistance.

PHAs/MFH Owners must establish in policy whether and when they will accept Safe Harbor income determinations (e.g., at reexamination only or at admission and reexamination), including which programs from which they will accept income determinations. PHAs/MFH Owners must also create policies that outline the course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs (e.g., to accept the most recent income determination). These policies must be included in the PHA's/MFH Owner's ACOP, Administrative Plan, or Tenant Selection Plan, as applicable.

J.5 Verification Hierarchy

Regulation: 24 CFR §§ 5.240(c); 5.659(d); 891.105; 891.410(b)-(c) and (g); 891.610(b)-(c) and (g); 960.259(c); 982.201(e); and 982.516(a)(2)

Summary: PHAs/MFH Owners are responsible for obtaining third-party verification of reported family annual income, the value of assets, expenses related to deductions from annual income, and other factors that affect the determination of adjusted income. Third-party verification is a process by which PHAs/MFH Owners gather information (e.g., about the family's annual income, value of assets, etc.) independently from the source of the income, assets, expenses, or other factors that affect the determination of adjusted income. Third-party verification may be obtained directly from the third party or through the family. PHAs/MFH Owners must document in the tenant file the reason why third-party verification was not available unless HUD's regulations specifically permit families to self-certify a particular component of adjusted income.

HUD developed a hierarchy (see table J2, below) that describes verification documentation from most acceptable to least acceptable. The PHA/MFH Owner must demonstrate efforts to obtain third party verification prior to accepting self-certification

except instances when self-certification is explicitly allowed (e.g., net family assets that do not exceed $50,000.

A description of each verification technique and additional guidance follows Table J2.

Table J2: Verification Hierarchy

Level	Verification Technique	Ranking/Order of Acceptability
6	Upfront Income Verification (UIV), using HUD's Enterprise Income Verification (EIV) system	Highest PHAs/MFH Owners must pull the EIV Income Report for each family at every Annual Reexamination. EIV may be used as the sole verification of Social Security income. EIV income information may be used to calculate other types of annual income when family agrees. See Level 4 for more information.
5	Upfront Income Verification (UIV) using non-EIV system (e.g., The Work Number, web-based state benefits systems, etc.)	Highest
4	Written, third-party verification from the source, also known as "tenant-provided verification" OR EIV + Self-Certification PHAs/MFH Owners can choose either option when both are available to verify income. PHAs/MFH Owners must use written, third-party verification when the income type is not available in EIV (e.g., self-employment, Go Fund Me accounts, general public assistance, Veterans Administration benefits, etc.)	High • Written, third-party verification is used when tenant disputes EIV-reported employment and income information. • The EIV Income Report may be used to verify and calculate income if the family self-certifies that the amount is accurate and representative of current income. The family must be provided with the information from EIV.
3	Written, Third-Party Verification Form	Medium • Use if Level 5 or Level 4 verification is not available or is rejected by the PHA/MFH Owner and when the applicant or tenant is unable to provide acceptable documentation. • May substitute Level 2 for written, third-party verification form, only completing one of the two forms of verification before moving to self-certification.
2	Oral Third-Party Verification	Medium

1	Self-Certification (not third-party verification)	Low Use as a last resort when unable to obtain any type of third-party verification or if specifically permitted, such as to determine actual income from assets when the family certifies that net family assets do not exceed $50,000.

J.5.a Third-Party Verification Descriptions and Guidance

- **Upfront Income Verification (UIV) (Level 6/5):** 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 number of individuals. It should be noted that the EIV system is available to all PHAs/MFH Owners as a UIV technique and that all PHAs/MFH Owners are required to use EIV in its entirety (see paragraph J.3 on Mandated and Discretionary Use of EIV). PHAs/MFH Owners are encouraged to continue using other non-HUD UIV tools, such as The Work Number (an automated verification system) and state government databases, to verify tenant-reported income.
- **Written, Third-Party Verification (Level 4):** An original or authentic document generated by a third-party source dated within 120 days of the date received by the PHA/MFH Owner. For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation.

  Such documentation may be in the possession of the tenant (or applicant) and is commonly referred to as tenant-provided documents. PHAs/MFH Owners may obtain any tenant-provided documents and follow up directly with the third-party source to obtain necessary verification of information, when necessary.

  Examples of acceptable tenant-provided documentation (generated by a third-party source) include but are not limited to the following: pay stubs, payroll summary report, employer notice/letter of hire/termination, SSA benefit verification letter, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.

  PHAs/MFH Owners are required to obtain a minimum of two current and consecutive pay stubs for determining annual income from wages when they do not elect to use EIV + Self-Certification or the income type is not reported in EIV. MFH Owners were previously required to collect the most recent four to six weeks of pay stubs to verify employment income. For new income sources or when two pay stubs are not available, the PHA/MFH Owner should determine income based on the information from a traditional written, third-party verification form or the best available information.

  Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal

from online source, etc.) are an acceptable form of written, third-party verification.

When verification of assets is required, PHAs/MFH Owners are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts. MFH Owners were previously required to average the balance of six checking account statements to determine the cash value of a checking account.

EIV may be used as Level 4 verification and may be used to calculate income as long as the family agrees with the information in EIV; this practice is known as "EIV + Self-Certification." The PHA/MFH Owner may use their discretion to determine which method of calculation is reasonable: the last 4 quarters combined or an average of any number of quarters. The EIV Income report must be pulled within 120 days prior to the reexamination effective date.

- **Written, Third-Party Verification Form (Level 3):** This practice is also known as "traditional third-party verification." This type of verification is a form developed by the PHA/MFH Owner and used uniformly for all families when needed to collect information from a third-party source. The form is completed by the third party by hand (in writing or typeset). PHAs/MFH Owners send the form directly to the third-party source by mail, fax, or email.

  The PHA/MFH Owner may skip this level of verification before attempting Level 2, which means they will have only completed Level 3 or Level 2 verification before moving to Self-Certification.

- **Oral Third-Party Verification (Level 2):** Independent verification of information by contacting the individual income/expense source(s), as identified through the UIV technique, or identified by the family, via telephone or in-person visit. PHA/MFH Owner staff must document in the tenant file the date and time of the telephone call (or visit to the third party) and the name of the person contacted and their telephone number, along with the confirmed information.

  This verification method is commonly used when the independent source does not respond to the PHA/MFH Owner's faxed, mailed, or e-mailed request for information in a reasonable time frame (e.g., 10 business days).

  The PHA/MFH Owner may skip this level of verification if they attempted Level 3, which means they will have only completed Level 3 or Level 2 verification before moving to Self-Certification.

- **Non-Third-Party Verification Technique: Self-Certification (Level 1):** The tenant submits a signed statement of reported income and/or expenses to the PHA/MFH Owner. This verification method should be used as a last resort when the PHA/MFH Owner has not been successful in obtaining information via all other required verification techniques. When the PHA/MFH Owner relies on self-certification to verify income or expenses, the PHA/MFH Owner

must document in the tenant file 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.

Sample language: "I/We, the undersigned, certify under penalty of perjury that the information provided here is true and correct, to the best of my knowledge and recollection. WARNING: Anyone who knowingly submits a false claim or knowingly makes a false statement is subject to criminal and/or civil penalties, including confinement for up to 5 years, fines, and civil and administrative penalties. (18 U.S.C. 287, 1001, 1010, 1012; 31 U.S.C. 3279, 3802)"

J.6 Verification of Social Security Number (SSN)

Regulation: 24 CFR § 5.216(g)(1) 891.105; 891.410(b)-(c) and (g); 891.610(b)-(c) and (g)

Summary: It has become increasingly difficult for applicants to meet HUD's SSN disclosure requirements, particularly for those individuals experiencing homelessness. To help protect individuals' privacy, many federal, state, and local agencies no longer print an individual's SSN on official documentation. Individuals may be required to visit their local Social Security office and provide original identity documentation in order to obtain a replacement Social Security card.

HUD is adjusting what the Department considers acceptable documentation of SSN under 24 CFR § 5.216(g)(1) to make it easier for applicants to access programs even if they do not have access to their Social Security card or other documentation acceptable to HUD. PHAs/MFH Owners must still attempt to gather third-party verification of SSN prior to admission; however, they will also have the option of accepting a self-certification and a third-party document with the applicant's name printed on it to satisfy the SSN disclosure requirement if the PHA/MFH has exhausted all other attempts to obtain the required documentation. HUD has provided similar flexibility to PHAs through the CARES Act waivers and for Emergency Housing Vouchers.

HUD prescribes, through this notice and in accordance with 24 CFR 5.216(g)(1)(iii), that the following evidence of SSN is acceptable only after the PHA/MFH Owner has attempted to first 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:

Self-certification of SSN *and* at least one third-party document, such as a bank statement, utility or cell phone bill, benefit letter, etc., that contains the name of the individual.

If verifying an individual's SSN using this method, the PHA/MFH Owner 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/MFH Owner must obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name of the individual and the SSN of the individual, along with other identifying information of the individual. The tenant's assistance must be terminated if they fail to provide the required documentation.

J.7 Verification of Excluded Income

To reduce administrative burdens on PHAs/MFH Owners, HUD is providing guidance and clarification on the requirements for verifying excluded income.

For income sources where the entire amount qualifies to be excluded from the annual income determination in accordance with 24 CFR § 5.609(b) and any *Federal Register* notice on mandatory exclusions issued by HUD, the PHA/MFH Owner **is not** required to:

- Verify the income using third-party verification;
- Document in the tenant file as to why the third-party verification was not available as required by 24 CFR §§ 5.659(d), 960.259(c)(i), and 24 CFR 982.516(a)(2); 891.105; 891.410(b)-(c) and (g); 891.610(b)-(c) and (g); or
- Report the income on forms HUD–50058/HUD–50059.

PHAs/MFH Owners may accept an applicant or participant's self-certification as verification of excluded income. The PHA/MFH Owner's application and reexamination questionnaire documentation may serve as the self-certification of excluded income. PHAs/MFH Owners have the option of verifying the income using third-party verification, if necessary, to determine if a source of income qualifies for exclusion.

Examples of excluded income categories that are verifiable through applicant or participant self-certification include:

- Supplemental Nutrition Assistance Program (SNAP) benefits, formerly known as food stamps.
- Income of a live-in aide. For a complete list of income exclusions, see 24 CFR § 5.609(b).

An income source that is partially excluded, for example, earnings in excess of $480 for full-time students 18 years of age or older (24 CFR § 5.609(b)(14)), must be third-party verified and reported on forms HUD–50058/HUD–50059.

J.8 Zero Income Reviews

A "zero income review" is an assessment, sometimes periodic, performed by the PHA/MFH Owner of the income of a family who claims that they do not receive income from any source, including from assets. During such reviews, it is common for PHAs/MFH Owners to request that families complete and sign a worksheet explaining how they pay for the household's expenses. HUD does not require PHAs/MFH Owners to conduct periodic zero income reviews.

In calculating annual income, PHAs/MFH Owners must not assign monetary value to non-monetary in-kind donations from a food bank or similar organization received by the

family (24 CFR § 5.609(b)(24)(vi)). PHAs/MFH Owners perform an interim reexamination only due to an increase in the family's adjusted income (24 CFR §§ 5.657(c)(3); 882.515(b)(3); 891.410(g)(2); 891.610(g)(2); 960.257(b)(3); and 982.516(c)(3)).

PHAs/MFH Owners that will continue to perform zero income reviews must update local discretionary policies, procedures, and forms to comply with the final rule requirements. For example, families who begin receiving income which does not trigger an interim reexamination should no longer be considered zero income even though the family's income is not reflected on the form HUD–50058/HUD–50059.

HRA Agenda Report
Date: January 16, 2024
HRA Executive Director: _____

6-B

Agenda Item: Minnesota Housing POHP Funding Application – Resolution No. 2024 - 3358

Action to be considered:
Motion to approve Resolution 2024 – 3358 Authorizing an Application to the Minnesota Housing and Finance Agency POHP Funding Program.

Overview:
Minnesota Housing, through its POHP (Publicly Owned Housing Program), has designated $41 million in funding from the proceeds of General Obligation (GO) Bonds for the rehabilitation and preservation of public housing units. This grant program helps housing communities with costs associated with the rehabilitation of public housing, particularly to address health and life safety, accessibility, energy and water efficiency, and critical needs that have an expected useful life of more than 10 years. Other approved projects include expenditures of a capital nature such as design, rehabilitation, or major remodeling.

The projects to be considered are as follows:

- **Federal Pacific Electric Panel Replacement** – Both John Carroll and Nan McKay currently have Federal Pacific panels through out the building and in all tenant units that have been discontinued due to fire safety hazards found with the specific equipment. They no longer make parts for any repairs or replacements, and several units have had issues with sparking and failure of the breakers. We currently have one unit that has only has power in two rooms and will take more than 5 weeks to order a custom-made panel to replace what is currently there. Federal Pacific Panels are well known for causing fires and other serious issues which is why they are discontinued. See attached detail packet from Rivertown Electric highlighting the panels and the current issues with them.

- **Highrise Roof Replacement Project** – Both high-rise buildings need roof replacements. We went out for bid twice for John Carroll with the post-covid bid over $1.3M to replace, which we are not able to fund with capital dollars alone. John Carroll has three cell towers stationed on the roof, several mechanical building suites, and many different levels of roofing…platforms also need to be raised to bring the insulation up to code and several other items that require coordination with the cell carriers. Both buildings also need anchors installed. Attached are the JC roofing plans from the last bid round.

It is absolutely necessary in the very near future for all of the John Carroll & Nan McKay electrical panels and equipment to be updated to ensure that the longevity of the building is not negatively impacted due to the danger of fire and malfunction of these outdated and discontinued electrical panels.

Staff's opinion is that it is equally necessary to secure additional funding for the replacement of both the John Carroll and Nan McKay roofs, as capital dollars will not be sufficient to fund these projects alone, and they are currently both in need of replacement.

Costs for this project are estimated at around $3 million for construction. Final numbers are currently being reviewed by Finn Daniels Architects and will be included in the grant application. A portion of our capital dollars will be offered up as leverage to use in conjunction with POHP funding for the overall cost and completion of this project.

A breakdown of the project costs are as follows:

John Carroll

- 165 x apartment panel replacements with AFCI protection – cost range $420-$445k
- Main service and house panels preventative maintenance (Clean, retorque, infrared imaging, small repairs) – $50k
- Architect & Engineering – cost range $42-$45k

Nan McKay

- 132 x apartment panel replacements with AFCI protection – cost range $345-$365k
- Main service and house panels preventative maintenance (Clean, retorque, infrared imaging, small repairs) – $50k
- Architect & Engineering – cost range $34-36k

Project Totals:

John Carroll Apts
Electrical: $512-$540k
Roof: $1.3M

Nan McKay
Electrical: $429-$451k
Roof: $300K

Minnesota Housing will award POHP grants to projects that provide the highest return in public benefits for the public costs incurred and meet all statutory requirements.

NOTE: Since POHP loans are funded by GO bonds, the property must remain in public ownership for a 35-year compliance period. As a result, POHP loans are incompatible with Rental Assistance Demonstration (RAD) transactions that involve a transfer of ownership to a non-public owner.

Staff's opinion is that we have a great opportunity to use funding from this grant matched with capital dollars to tackle this much needed project. We have a solid chance of receiving these funds based on feedback received from Finn Daniels Architects as well as MN Housing during our technical interview. We believe that applying for these funds is well worth the commitment of adding the 35-year public service requirement to this portfolio. Staff completed the initial technical kick-off meeting with MHFA on December 13, 2023 to discuss our projects and costs, and applications for funding are due by Wednesday, March 6, 2024.

Source of Funds:
MHFA PHOP Grant and Public Housing Capital Funds

Attachments:
6-B_2024 POHP Program Guide
6-B_John Carrol and Nan McKay Electrical Hazards
6-B_Plan Drawings_Roofing Project
6-B_Resolution 2024-3358

HOUSING AND REDEVELOPMENT AUTHORITY
OF THE CITY OF SOUTH ST. PAUL
DAKOTA COUNTY, MINNESOTA

RESOLUTION NO. 2024-3358

Minnesota Housing POHP Funding Application
Request to Apply for Funding

WHEREAS, the Housing and Redevelopment Authority of the City of South St. Paul, Minnesota (HRA) is the owner and operator of the John Carroll Building, 300 Grand Avenue West in South St. Paul, and the Nan McKay Building, 200 Marie Avenue, South St. Paul, MN 55075, which provides 298 units of income- and age-restricted housing and designated as Public Housing by the United States Department of Housing and Urban Development (the "Building"); and

WHEREAS, the Minnesota Housing Finance Agency (MHFA) provides financial assistance through the Publicly Owned Housing Program – Public Housing (POHP), which can be in the form of a fully forgivable loan for certain capital investments in Public Housing facilities such as the John Carroll and Nan McKay Buildings; and

WHEREAS, HRA Staff has identified that the electrical systems throughout the Buildings are dangerous, obsolete, and present a threat to the HRA's ability to continue to provide safe, sanitary living conditions at the Buildings; and

WHEREAS, HRA Staff has identified both main roofs on the Buildings are in need of replacement, along with anchors installed, and not doing so would present a threat to the HRA's ability to provide safe, and sanitary housing, as these projects cannot be funded through capital dollars alone; and

WHEREAS, Roof Replacement Projects and Electrical Panel Projects (the "Project") have been identified in the HRA's Capital Improvement Program since at least 2017, the Projects are eligible for POHP funding, and without POHP funding the Projects are financially infeasible for the HRA; and

WHEREAS, if awarded POHP for the Projects, the Buildings will be required to remain in public ownership for a 35-year compliance period; and

WHEREAS, the HRA has the financial capacity to leverage a POHP award with Capital Program funds, thereby improving the HRA's opportunities to receive this award.

NOW, THEREFORE, BE IT RESOLVED by the Housing and Redevelopment Authority of the City of South St. Paul, that it is in the best interest of the HRA, the residents of the Buildings, and the City of South St. Paul to apply for POHP funding for the Roof Replacement and Electrical Upgrade Projects in the 2024 Application Cycle.

Moved by: Commissioner _____

Seconded by: Commissioner _____

Adopted this 16th day of January 2024.

_____Ayes _____Nays



Publicly Owned Housing Program

Program Guide

January 2024



The Minnesota Housing Finance Agency does not discriminate on the basis of race, color, creed, national origin, sex, religion, marital status, status with regard to public assistance, disability, familial status, gender identity, or sexual orientation in the provision of services.

An equal opportunity employer.

This information will be made available in alternative format upon request.

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Values Statement

All Minnesotans live and thrive in a stable, safe and accessible home they can afford in a community of their choice. To achieve the concept of One Minnesota where everyone thrives, we will reorient how we work and expand who has a voice at the table and who participates in and benefits from the housing economy.

We will:

- Center the people and places most impacted by housing instability at the heart of our decision making,
- Listen and share the power we have,
- Honor, respect and strengthen communities, and
- Be inclusive, equitable, just and antiracist in our action.

Chapter 1 – Program Background and Purpose

1.01 Program Background and Purpose

The Publicly Owned Housing Program (POHP) was first established by the Minnesota Legislature in 2005 to offer assistance to Housing and Redevelopment Authorities (HRAs)/Public Housing Authorities (PHAs)/Community Development Agencies (CDAs) that provide public housing to individuals and families (households with children). The purpose of POHP is to rehabilitate and preserve public housing units. POHP funds are provided in the form of a 20-year, deferred, forgivable loan to HRAs/PHA/CDAs that operate public housing.

Since 2005, POHP has received increased funding and support from the Minnesota Legislature and continues to provide assistance to HRAs/PHA/CDAs funded by the sale of General Obligation (GO) Bonds. GO Bonds are issued by Minnesota Management and Budget (MMB) and are backed by the full faith and credit of the state of Minnesota.

Minnesota Statutes sections 16A.695 and 462A.202 govern the use of GO Bond proceeds, which require the project to be owned by a state agency or political subdivision and require a public program be provided in the project. Priority uses of POHP funds include:

- Rehabilitation of public housing, particularly to address health and life safety, accessibility, energy and water efficiency/climate resiliency and sustainability, and critical needs that have an expected useful life of more than 10 years
- Improvements of a capital nature

1.02 Funding Availability

- There is no minimum or maximum loan request limit.
- Minnesota Housing may fund all or part of a project identified within the application.
- There is no minimum or maximum loan request limit. Minnesota Housing requires leveraged resources, although there is no minimum percentage required. Minnesota Housing prioritizes project proposals that maximize federal resources such as capital funds, or local (non-state) resources such as philanthropic, community foundation, and/or utility rebates.
- All HRAs/PHA/CDAs are encouraged to apply, even if they have limited, leveraged resources.

1.03 Definitions

Appendix A includes definitions of capitalized terms used in this Program Guide and is attached and incorporated into this Program Guide.

1.04 Legal Addendum

Any recipient of an award pursuant to POHP agrees to comply with the additional requirements and obligations as described in Appendix B, which is attached and incorporated into this Program Guide.

Chapter 2 - Eligibility Criteria

2.01 Property

- The property must be public housing, defined as housing for low-income people that is financed, in whole or in part, by the federal government and owned and operated by an HRA, a PHA, or a (CDA) formed by a city or a county.
- The property must be an existing building(s).
- An HRA/PHA/CDA may apply for more than one development; the development should contain a minimum of four units. Because of the limited amount of POHP funding available, it is advisable to prioritize which development has the most imminent needs.
- All types of public housing (e.g., single family scattered site, duplexes, townhomes and high rises) are eligible to apply.
- **NOTE:** Since POHP loans are funded by GO Bonds, the property must remain in public ownership for a 35-year compliance period. As a result, POHP loans are incompatible with Rental Assistance Demonstration (RAD) transactions that involve a transfer of ownership to a non-public owner.

2.02 Owner

All applicants must satisfy the following requirements:

- The applicant must have the authority to own and operate the project, enter into the loan agreements required by Minnesota Housing, and comply with the requirements of Minnesota Statutes sections 16A.695 and 462A.202.
- The applicant must be a local unit of government such as a city, county, or HRA/PHA/CDA as defined in Minnesota Statutes section 462C.02, subdivision 6.
- The applicant (public owner) must directly operate and manage the project.

2.03 Income Limits

All units in a project financed with POHP funds must be occupied by households whose income at the time of initial occupancy does not exceed the maximum household income as determined by HUD's Office of Public and Indian Housing.

A recipient of POHP funds may choose to restrict fewer than the total number of units in the development. This is an important consideration when applying for funds, as the number of restricted units will need to comply for the entire 35-year compliance period.

2.04 Eligible Use(s) of Funds

Eligible uses of funds include but are not limited to:

1. Expenditures of a capital nature such as design, rehabilitation, or major remodeling
2. Major roof reconstruction or replacement
3. Major window replacement
4. Heating and cooling system replacement
5. Elevator upgrades
6. Installation or modernization of fire alarm and/or fire suppression systems
7. Other improvements that add value or life to a building and that are not of a recurring nature. In addition, these improvements must have an intended minimum life expectancy of 10 years.
8. An application may contain multiple work items. Minnesota Housing will review these items individually and determine how they pertain to the stated priorities of the program (health and life safety; accessibility; energy and water efficiency/climate resiliency and sustainability; critical needs).
9. Applicants may request a project management fee not to exceed 5% of the net total development cost. The fee may be used to pay for soft costs directly related to costs associated with applying for POHP funds. Such costs may include administrative expenses, processing agent fees, or construction management fees.

NOTE: All expenditures must be project specific and considered reasonable expenses associated directly to the proposed POHP renovation project.

2.05 Ineligible Use(s) of Funds

Ineligible uses of funds include but are not limited to:

- Expenditures that are not of a capital nature, do not add value or life to a building, or are of a recurring nature
- Operating expenses and costs, reserves, market studies, up-front marketing expenses, hazard and liability insurance, legal fees not attributable to or betterment of the property, relocation expenses and other ongoing maintenance improvements
- Expenses that are incurred prior to formal Minnesota Housing board approval, with the exception of project specific, pre-renovation fees associated with scope of work development, design, or engineering specifications
- New construction of public housing

Chapter 3 - Application Requirements

3.01 Applicant Responsibilities

The applicant is responsible for understanding the submission requirements necessary for a complete application. Application materials include the application checklist, the Narrative and Certifications, the POHP Workbook and supplemental materials.

NOTE: All applicants are required to schedule at least one technical assistance meeting either in person, virtually, or via phone with POHP staff prior to submitting an application. To schedule a technical assistance meeting, contact Cheryl Rivinius at 651.296.3705 or cheryl.rivinius@state.mn.us.

Application materials are available on Minnesota Housing's POHP webpage.

3.02 Application Deadline/Application Submission

A complete application must be submitted no later than the application due date in order to be considered for selection. Applications must be submitted using Minnesota Housing's Multifamily Customer Portal which is a web-based system that facilitates the application and post-selection process for developers seeking funding from Minnesota Housing for affordable rental housing.

Information about setting up an account, "how to" guides providing details on navigating the Portal, and log in access can be found on the Multifamily Customer Portal Resources webpage.

The RFP process is highly competitive in nature. A typical funding round will result in requests that far exceed the amount of funding that is available. Minnesota Housing, in its sole discretion, reserves the right to request additional information or to deem an error related to an application to be immaterial.

For each funding round, applicants must use the most current version of application forms found on Minnesota Housing's POHP webpage.

3.03 Application Content

A separate, **complete application** must be submitted for each project.

The application package must include all of the following:

- POHP Application Checklist
- POHP Workbook
- Narrative and Certifications
- Most current Five-Year Capital Fund Program (CFP) Action Plan
- Most recent PHA capital needs assessment and any updates

- One- or two-year current audited financial statements
- Annual operating budget for HRA/PHA/CDA
- Most recent REAC inspection report
- Applicant Certification of Known Environmental Conditions
- Photographs of overall property, existing conditions and proposed improvement areas
- If available, provide any other information deemed appropriate to support the application, including currently available architectural or engineering plans such as site plans, floor plans, exterior building elevations, product specifications, elevator modernization proposals, 3D renderings, most recent energy audit, etc.

3.04 Scope of Work

In general, scope of work items must include durability and life expectancy for at least ten years. Rehabilitation scope of work items eligible for consideration under POHP may include but are not limited to:

1. Health and Life Safety

a. Building or fire code violations such as fire alarms, smoke alarms, GFCI/AFCI protection, carbon monoxide (CO) alarms, nitrogen dioxide (NO^2) alarms, fire egress, elevator upgrades
b. Environmental remediation for mold, radon, friable asbestos, lead-based paint hazards, soil vapor, sound/noise
c. Site improvements to correct tripping/fall hazards or other unsafe site conditions
d. Replace, repair, or remove any conditions of imminent structural collapse or failure
e. Building envelope work to adequately prevent water or air penetration and prevent mold or other unsafe, interior health and life safety conditions
f. Repair or replace systemic leaky or failed water and sewer piping
g. Repairs or replacements of mechanical equipment, controls, ductwork, etc.
h. Remedies to provide proper clothes dry venting and natural gas combustion equipment venting
i. Installation or modernization of fire suppression systems

2. Accessibility

a. Compliance with Section 504 of the Rehabilitation Act of 1973, the Architectural Barriers Act, the Fair Housing Act, the Americans with Disabilities Act (ADA), and state accessibility requirements
b. Improvements such as Universal Design features, reasonable accommodations requests, and aging-in-place features

3. Energy and Water Efficiency/Climate Resiliency and Sustainability

a. Replacement of inefficient plumbing fixtures with water conserving fixtures
b. Replacement of inefficient/antiquated Heating Ventilating and Air Conditioning (HVAC), lighting, controls, etc.
c. Weatherization improvements such as additional insulation, air-bypass sealing, exterior window/door upgrades, or other energy efficiency strategies
d. Renewable energy systems may be considered if supported by a third-party analysis with a simple 10-year payback
e. Upgrade in materials/building modifications to withstand extreme weather impacts Examples include: fortified roofing, floodproofing (such as elevating mechanicals), increasing envelope efficiency, flood resilient elevators
f. Improvements to prepare the building for climate resilient/sustainable systems that will be installed in the near future

4. Critical Needs

a. Replacement or repair of items that outlived their expected useful life, are antiquated, worn-out, or simply inoperable
b. Conditions determined to be critical via a certified HUD Universal Physical Condition Standard (UPCS) or Real Estate Assessment Center (REAC) Deficiencies Inspection Report
c. Any work described in Minnesota Housing's Rental Housing Design/Construction Standards (RHD/CS), Chapter 8 – Critical Physical Needs and Preservation Funded Projects

3.05 Leverage

For leverage, an HRA/PHA/CDA may submit an application showing the commitment of a portion of their capital fund; however, if your application were to be selected for funding, the loan could not close until these capital funds were available.

An applicant may commit unissued bond proceeds as leverage; however, the POHP loan cannot close until funds have been received. The HRA/PHA/CDA should be cautious in offering bond proceeds as leverage in the event the bonds are not issued.

3.06 Relocation Plan

Minnesota Housing prohibits involuntary displacement of residents from developments receiving Minnesota Housing funding. All existing developments must submit a relocation plan that addresses

both temporary relocation and permanent voluntary displacement. The applicant must thoroughly assess the potential for displacement.

The plan must include:

- A description of the project
- Whether another funding source will require compliance with the Uniform Relocation Act (URA)
- A description of any temporary relocation, if any, that will occur based on the scope of work
- A description of how tenants' needs will be accommodated while they are temporarily displaced
- If tenants with special needs will be affected, include a description of how those needs will be accommodated
- A description of what the development team will do to help displaced tenants who may be hard to house, for example, due to family size
- Any social or other services to be used, as appropriate
- The assistance and compensation that will be offered to tenants who will either be temporarily relocated or permanently and voluntarily displaced
- An estimated budget identifying relocation/displacement expenses and an identified funding source
- A timeline

Chapter 4 - Selection Process

4.01 Review of the POHP Application

Minnesota Housing staff will review all POHP submissions after the application process has closed.

Minnesota Housing will review RFP application submittals for:

- Program eligibility
- Owner capacity
- The ability for an applicant to leverage POHP funds with other resources

Applications will be reviewed based upon the following criteria:

- Scope of work and consequences for not completing the work
- Anticipated operational or utility cost savings
- Geographic distribution of applicants
- First time or repeat applications
- Leverage
- Applicant capacity (including financial capacity)

A site visit may be conducted by Minnesota Housing staff based upon the proposed scope of work and construction costs.

Minnesota Housing's POHP selection committee will review all proposals and provide recommendations for funding. Recommendations are presented to various staff internally and if approved, recommendations will then be presented to Minnesota Housing's board for final approval.

4.02 Selection Notification

Applications recommended for further consideration and additional technical assistance will be presented to Minnesota Housing's board. All applicants will be notified of their status after the board has taken action.

Once selected, applicants have 20 months to secure a Loan Commitment for an End Loans or hold a Construction Loan closing.

Chapter 5 – Post-Selection Processing, Loan Terms and Conditions

5.01 Intake and Technical Assistance Kickoff Meeting

Projects that are selected for further consideration will be required to participate in an initial intake and technical assistance meeting. The purpose of the meeting is to review the details of the proposal and the specific requirements of the funding source.

The initial intake and technical assistance meeting will include the discussion of:

- The proposed scope of work
- The need for a third-party capital needs assessment
- The need for architectural and/or engineering services
- Required environmental studies
- The potential for a project processing agent
- Whether a general contractor will be required

Minnesota Housing staff will explain POHP due diligence requirements necessary to obtain a Loan Commitment for an End Loan and a Construction Loan closing.

5.02 Due Diligence Checklists

Following selection, POHP recipients are required to submit due diligence items to proceed to a Construction Loan closing or a Loan Commitment for an End Loan. Separate checklists exist for Construction Loans and End Loans and can be found on Minnesota Housing's POHP webpage.

Due diligence items will be submitted via the Multifamily Customer Portal.

5.03 Issuance of Loan Commitment/Loan Closing

Once due diligence and design reviews are complete, Minnesota Housing will issue a Loan Commitment for End Loans or conduct a loan closing for Construction Loans. POHP recipients can begin rehabilitation activities once the commitment is issued or the closing has taken place. Construction work should not begin prior to issuance of a Loan Commitment or a Construction Loan closing.

5.04 Loan Types

The Loan Commitment term and closing date are determined by the type of loan the applicant requests:

- **Construction Loan** – A permanent, long-term loan to finance construction and eligible soft costs. Loan funds are advanced during construction as the project progresses. The Construction Loan must close within 20 months from the initial Minnesota Housing board approval date.
- **End Loan** – A permanent, long-term loan that is used to pay off a short-term loan or other form of interim financing. The project must enter into a Loan Commitment for an End Loan within 20 months of board approval. The project must be completed and the loan closed within 18 months once the Loan Commitment for an End Loan is issued.

Either loan type may be available with Minnesota Housing approval.

If an applicant does not enter into a Loan Commitment for an End Loan or Construction Loan closing within the 20-month term, Minnesota Housing reserves the right to recapture funds or require a commitment extension.

5.05 Loan Terms

Selected proposals will be awarded funding in the form of a zero interest, deferred loan with a 20-year term. At the end of the 20-year term, the debt will be forgiven if no event of default has occurred; however, the applicant is required to continue to own and operate the project for a public purpose for a total of 35 years or until it is sold.

The sale of a GO Bond financed property cannot occur unless the owner or Minnesota Housing determines by official action that:

- The property is no longer usable or needed to carry out the governmental program for which it was acquired or constructed
- The sale is made as authorized by law
- The sale is made at fair market value
- The sale of the property requires prior written approval by Minnesota Housing and MMB

Minnesota Housing reserves the right to review the HRA's/PHA/CDA's POHP eligibility and potential ability to repay POHP funds if the HRA/PHA/CDA should no longer participate in HUD's Public Housing Program. At the time of the project loan closing, both a GO Bond Declaration and a Declaration of Covenants, Conditions and Restrictions are recorded against the property. The GO Bond Declaration must have priority over all liens filed against the property.

Chapter 6 - Design Review and Construction Management

Every applicant is required to comply with all of the following:

- Applicable requirements of the Minnesota Housing Rental Design/Construction Standards
- The most recently adopted edition of the Minnesota Building Code, International Building Code (IBC)
- Any other local, state and national codes and standards in effect. The most restrictive codes and regulations will apply
- Applicable Building, Benchmarks, and Beyond (B3) sustainability guidelines required for state-funded projects in Minnesota (refer to section 6.05 below), or Minnesota Housing's Limited Scope Project Sustainability Requirements

POHP applicants selected for further processing will confer with the assigned Minnesota Housing staff architect early in the design process to ensure rehabilitation plans and designs meet Minnesota Housing's standards and requirements.

6.01 Plan Review and Plan Approval

After the initial intake meeting and approval of scope of work, the applicant must submit construction documents to the assigned Minnesota Housing staff architect at the 75-90% completion phase and the 100% completion phase. Loan Commitment for End Loans and loan closing for Construction Loans are contingent upon an approved set of plans. Issuance of Loan Commitment for an End Loan or a Construction Loan closing will not occur without plan approval. Construction documents may be submitted in hard copy or electronic PDF. Consult with a Minnesota Housing staff architect for submission requirements.

6.02 Environmental Standards

Based upon the proposed scope of work, the HUD environmental review (if completed), and discussions with Minnesota Housing staff, the following environmental studies may be required:

- A Phase I Environmental Site Assessment (ESA) with the exception of:
    - A HUD "Categorical Exclusion Determination" may substitute for a Phase I ESA, if approved by Minnesota Housing, or
    - Projects with a total construction cost less than $300,000
- Phase II ESAs
- Lead-Based Paint (LBP) Inspection/Assessments
- Asbestos-Containing Material (ACM) Assessments and Asbestos Containing Material (ACM) Operating and Maintenance (O&M) Plans

- Radon Assessments
- Response Action Plans (RAP)
- Ongoing testing during construction

6.03 Architectural Services

If an architect is required, applicants must use the services of a licensed architect and/or licensed professional engineer unless waived per Minnesota Housing's Architect's Guide (refer to section 2.02 of the Architect's Guide). This may be waived by Minnesota Housing based upon limited scope of work status.

6.04 Design-build Design and Construction Delivery

Design-build delivery is not allowed unless approved by Minnesota Housing. Design-build is typically only allowed for single subcontractor-type scope of work such as elevator upgrades, re-roofing, etc.

6.05 B3 Sustainable Building Guidelines

The Buildings, Benchmarks, and Beyond (B3) program outlines Minnesota's Sustainable Building Design (MSBD) requirements. Per Minnesota Statutes section 16B.325, all projects funded by GO Bond proceeds must comply with B3 Guidelines. More information about B3 is available at the Minnesota Design of New Buildings and Renovations webpage.

Minnesota Housing will work with both the recipient and the Center for Sustainable Building Research (CSBR) to determine if a recipient is required to comply with B3 Guidelines. A recipient is required to comply with B3 Guidelines if **both** of the following apply:

- The building exceeds 10,000 square feet; **and**
- Modifications are made to the HVAC system

If Minnesota Housing and/or the recipient believe that they are not required to comply with B3 Guidelines, they must request a B3 non-applicability waiver from CSBR. A copy of the waiver must be provided to Minnesota Housing via your Portal account.

NOTE: Any projects receiving a B3 waiver are required to comply with Minnesota Housing's Limited Scope Project Sustainability Requirements.

6.06 Predesign Requirements

Minnesota Statutes section 16B.335 requires Predesign and legislative review for GO Bond funded projects with a total construction cost (including construction contingencies) of $1.5 million or more. Applicants should review the statute for exemptions.

Predesign is a written plan that is completed prior to designing and constructing the project. It includes information regarding the project purpose, architectural plans, project budget and schedule. It should also include information on staffing as well as the operating budget for the project. Please refer to the Department of Administration Sustainable Buildings webpage and Predesign Manual for Capital Projects.

Applicants who propose projects at or near the $1.5 million construction cost level should consult with the Department of Administration (Eric Radel, 651.201.2380,eric.radel@state.mn.us) to ensure the correct timeline and procedure are followed.

6.07 Energy Rebate Analysis

Minnesota Housing requires POHP funding applicants to apply for energy efficiency incentives from utilities and other sources. The purpose of this requirement is to leverage utility funds in order to increase the energy efficiency in affordable housing properties throughout Minnesota. In order to comply, each application must include information that outlines the type and amount of the available incentives.

For additional information on working with utilities to access energy incentives, contact Katherine Teiken at 651.296.7610 or katherine.teiken@state.mn.us.

6.08 Construction Management

To help ensure compliance with approved construction documents, regardless of an End Loan or a Construction Loan, Minnesota Housing must:

- Be granted access to the construction site during construction
- Receive regular construction meeting minutes and observation reports from the PHA's architect (electronic PDF only)
- Receive (electronic PDF only) copies of Request for Proposals (RFP), change orders, Architectural Supplemental Instructions (ASIs), or any other change directive. Change orders must be submitted to and approved by Minnesota Housing prior to acceptance or prior to being executed

6.09 Construction Loan – Request for Funds Process

For Construction Loans, contractor pay applications will be reviewed on site once a month at a regularly scheduled pay draw meeting with the owner, general contractor, and the PHA's architect in attendance. Upon approval of the pay application by the PHA's architect, the pay application and other soft cost expenses (with receipts) must be submitted to Minnesota Housing using the request for funds process.

A Minnesota Housing staff architect may or may not attend on-site, pay draw meetings. Photos of the construction progress must be included with the pay application. The pay application process may be streamlined based upon a limited scope of work status if approved by Minnesota Housing.

Submittals required for end of construction and project closeout are included in the POHP Due Diligence Checklist.

Chapter 7 - Compliance Monitoring and Reporting

7.01 Compliance Monitoring Requirement

Minnesota Housing performs periodic inspections of the projects it finances. The frequency of physical inspections is determined by several factors such as loan type, term, loan amount, etc. Owners will be notified in advance of any inspection.

7.02 Compliance Reporting Requirement

POHP recipients are required to provide annual reporting using Minnesota Housing's Property Online Reporting Tool (PORT). Owners must submit an annual certification of compliance and occupancy data on all restricted units in the property. A PORT User Guide can be found on the Minnesota Housing Partner Login webpage.

7.03 Compliance Term

All projects funded through GO Bond proceeds are required to comply with the affordability restrictions and are subject to monitoring and reporting for 35 years beginning on the date of closing.

Appendix A – Terms

Table 1: Terms and Definitions

Term	Definition
Buildings, Benchmarks, and Beyond (B3)	Guidelines developed for state-funded projects in Minnesota to ensure projects meet sustainability goals.
Community Development Agency (CDA)	A local government agency as defined in Minnesota Statutes Section 462C.02, subdivision 6, responsible for the management and operation of its local public housing program and/or other types of housing, community or economic development programs.
Construction Loan	A construction/permanent, long-term loan to finance construction/rehabilitation and eligible soft costs. The loan funds are advanced incrementally during construction/rehabilitation.
End Loan	A permanent, long-term loan that is used to pay off a short-term construction/rehabilitation loan or other form of interim financing.
General Obligation (GO) Bonds	Debt instruments issued by states and local governments to raise funds for public works that are backed by the full faith and credit of the issuing municipality.
Housing and Redevelopment Authority (HRA)	A local government agency as defined in Minnesota Statutes Section 462C.02, subdivision 6, responsible for the management and operation of its local public housing program and/or other types of housing, community or economic development programs.
Loan Commitment	A contractual agreement between Minnesota Housing and the borrower that sets forth the terms under which Minnesota Housing will lend funds to the borrower for a project.
Predesign	A plan required by local government units utilizing funding from the state legislature for capital improvement projects exceeding $1.5 million in construction costs.

Term	Definition
Public Housing Authority (PHA)	A state, county, municipality or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the United States Housing Act of 1937 (42 U.S.C. 1437*et seq.*).
Uniform Relocation Act (URA)	The Uniform Relocation Act applies to federally funded projects involving rehabilitation or acquisition. The URA provides displaced persons with fair, equitable treatment and protection from disproportionate injury by projects designed to benefit the public. The URA requirements must be adhered to by the owner. If the borrowing entity will be displacing or temporarily relocating tenants, a tenant relocation plan that conforms to all URA requirements is required and must include an outline of how tenants will be accommodated during construction, an overview of construction activities, a project timeline, an estimated budget, and whether or not the scope of work will require temporary or permanent relocation.

Appendix B – Legal Addendum

1.01 Conflict and Control

In the event of any conflict between the terms of this Addendum and the document to which it is attached, the terms of this Addendum will govern and control.

1.02 Fraud

Fraud is any intentionally deceptive action, statement or omission made for personal gain or to damage another.

Any person or entity (including its employees and affiliates) that enters into a contract with Minnesota Housing and witnesses, discovers evidence of, receives a report from another source or has other reasonable basis to suspect that fraud or embezzlement has occurred must immediately make a report through one of the communication channels described in section 1.07.

1.03 Misuse of Funds

A contracting party that receives funding from Minnesota Housing promises to use the funds to engage in certain activities or procure certain goods or services while Minnesota Housing agrees to provide funds to the recipient to pay for those activities, goods or services. Regardless of the Minnesota Housing program or funding source, the recipient must use Minnesota Housing funds as agreed, and the recipient must maintain appropriate documentation to prove that funds were used for the intended purpose(s).

A misuse of funds shall be deemed to have occurred when: (1) Minnesota Housing funds are not used as agreed by a recipient; or (2) a recipient cannot provide adequate documentation to establish that Minnesota Housing funds were used in accordance with the terms and conditions of the contract.

Any recipient (including its employees and affiliates) of Minnesota Housing funds that discovers evidence, receives a report from another source or has other reasonable basis to suspect that a misuse of funds has occurred must immediately make a report through one of the communication channels described in section 1.07.

1.04 Conflict of Interest

A conflict of interest – Actual, Potential or Appearance of a Conflict of Interest – occurs when a person has an actual or apparent duty or loyalty to more than one organization and the competing duties or loyalties may result in actions which are adverse to one or both parties. A Potential Conflict of Interest or Appearance of a Conflict of Interest exists even if no unethical, improper or illegal act results from it.

- **Actual Conflict of Interest:** An Actual Conflict of Interest occurs when a person's decision or action would compromise a duty to a party without taking immediate appropriate action to eliminate the conflict.
- **Potential Conflict of Interest:** A Potential Conflict of Interest may exist if a person has a relationship, affiliation or other interest that could create an inappropriate influence if the person is called on to make a decision or recommendation that would affect one or more of those relationships, affiliations or interests.
- **Appearance of a Conflict of Interest:** The Appearance of a Conflict of Interest means any situation that would cause a reasonable person, with knowledge of the relevant facts, to question whether another person's personal interest, affiliation or relationship inappropriately influenced that person's action, even though there may be no Actual Conflict of Interest.

A conflict of interest includes any situation in which one's judgment, actions or non-action could be interpreted to be influenced by something that would benefit them directly or through indirect gain to a Partner, Family Member, Relative, Friend, Business or other Outside Interest with which they are involved. Such terms are defined below.

- **Business:** Any company, corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual or any other legal entity which engages either in nonprofit or profit-making activities.
- **Family Member:** A person's current and former spouse; children, parents, and siblings; current and former children-in-law, parents-in-law, and siblings-in-law; current and former stepchildren and stepparents; grandchildren and grandparents; and members of the person's household.
- **Friend:** A person with whom the individual has an ongoing personal social relationship. "Friend" does not generally include a person with whom the relationship is primarily professional or primarily based on the person being a current or former colleague. "Friend" does not include mere acquaintances (i.e., interactions are coincidental or relatively superficial). Social media friendships, connections, or links, by themselves, do not constitute friendship.
- **Outside Interest:** An Outside Interest may occur when an individual, their Family Member or their Partner has a connection to an organization via employment (current or prospective), has a financial interest or is an active participant.
- **Partner:** A person's romantic and domestic partners and outside Business partners.
- **Relative:** Uncle or aunt; first or second cousin; godparent; godchild; other person related by blood, marriage or legal action with whom the individual has a close personal relationship.

Once made aware of a conflict of interest, Minnesota Housing will make a determination before disbursing any further funds or processing an award. Determinations could include:

- Revising the contracting party's responsibilities to mitigate the conflict
- Allowing the contracting party to create firewalls that mitigate the conflict

- Asking the contracting party to submit an organizational conflict of interest mitigation plan
- Terminating the contracting party's participation

Any person or entity (including its employees and affiliates) that enters into a contract with Minnesota Housing must avoid and immediately disclose to Minnesota Housing any and all conflicts of interest through one of the communication channels described in section 1.07.

A contracting party should review its contract and request for proposals (RFP) material, if applicable, for further requirements.

1.05 Assistance to Employees and Affiliated Parties

Any party entering into a contract with Minnesota Housing for the purpose of receiving an award or benefit in the form of a loan, grant, combination of loan and grant or other funding is restricted in issuing a loan, grant, combination of loan and grant or other funding to a recipient ("Affiliated Assistance") who is also: (1) a director, officer, agent, consultant, employee or Family Member of an employee of the contracting party; (2) an elected or appointed official of the State of Minnesota; or (3) an employee of Minnesota Housing, unless each of the following provisions are met:

- The recipient meets all eligibility criteria for the program;
- The assistance does not result in a violation of the contracting party's internal conflict of interest policy, if applicable;
- The assistance does not result in a conflict of interest as outlined in section 1.04;
- The assistance is awarded utilizing the same costs, terms and conditions as compared to a similarly situated unaffiliated recipient and the recipient receives no special consideration or access as compared to a similarly situated unaffiliated recipient; and
- The assistance is processed, underwritten and/or approved by staff/managers who are independent of the recipient and independent of any Family Member of the recipient. Family Member is defined in section 1.04.

A contracting party need not disclose Affiliated Assistance to Minnesota Housing. However, the contracting party must document and certify, prior to the award, that the Affiliated Assistance meets each of the provisions outlined above. This documentation must be included in the Affiliated Assistance file and must be made available to Minnesota Housing upon request. Affiliated Assistance that does not meet each of the provisions outlined above will be considered a violation of Minnesota Housing conflict of interest standards and must be reported by the contracting party through one of the communication channels outlined in section 1.07.

1.06 Suspension

By entering into any contract with Minnesota Housing, a contracting party represents that the contracting party (including its employees or affiliates that will have direct control over the subject of the contract) has not been suspended from doing business with Minnesota Housing. Please refer to

Minnesota Housing's website for a list of suspended individuals and organizations (Go to mnhousing.gov, scroll to the bottom of the screen and select Report Wrongdoing, then select Suspensions from the menu).

1.07 Disclosure and Reporting

Minnesota Housing promotes a "speak-up, see something, say something" culture whereby internal staff must immediately report instances of fraud, misuse of funds, conflicts of interest or other concerns without fear of retaliation through one of the communication channels listed below. External business partners (e.g., administrators, grantees or borrowers) and the general public are strongly encouraged to report instances of fraud, misuse of funds, conflicts of interest or other concerns without fear of retaliation using these same communication channels.

- Minnesota Housing's Chief Risk Officer at 651.296.7608 or 800.657.3769 or by email at MHFA.ReportWrongdoing@state.mn.us;
- Any member Minnesota Housing's Servant Leadership Team, as denoted on Minnesota Housing's current organizational chart (Go to mnhousing.gov, scroll to the bottom of the screen and select About Us, select Servant Leadership Team); or
- Report Wrongdoing or Concerns (mnhousing.gov) (Go to mnhousing.gov, scroll to the bottom of the screen and select Report Wrongdoing).

1.08 Electronic Signatures

Minnesota Housing will use and accept e-signatures on eligible program documents subject to all requirements set forth by state and federal law and consistent with Minnesota Housing policies and procedures. The use of e-signatures for eligible program documents is voluntary. Questions regarding which documents Minnesota Housing permits to be e-signed should be directed to Minnesota Housing staff.

1.09 Fair Housing Policy

It is the policy of Minnesota Housing to affirmatively further fair housing in all its programs so that individuals of similar income levels have equal access to Minnesota Housing programs, regardless of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, familial status, gender identity or sexual orientation.

Minnesota Housing's fair housing policy incorporates the requirements of Title VI of the Civil Rights Act of 1968; the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendment Act of 1988; and the Minnesota Human Rights Act. Housing providers and other entities involved in real-estate related transactions are expected to comply with the applicable statutes, regulations and related policy guidance. Housing providers should ensure that admissions, occupancy, marketing and operating procedures comply with non-discrimination requirements. Housing providers and other entities involved in real-estate related transactions must comply with all non-discrimination requirements related to the provision of credit, as well as access to services.

In part, the Fair Housing Act and the Minnesota Human Rights Act make it unlawful, because of protected class status, to:

- Discriminate in the selection/acceptance of applicants in the rental of housing units;
- Discriminate in the making or purchasing of loans for purchasing, constructing or improving a dwelling, or in the terms and conditions of real-estate related transactions;
- Discriminate in the brokering or appraisal of residential property;
- Discriminate in terms, conditions or privileges of the rental of a dwelling unit or services or facilities;
- Discriminate in the extension of personal or commercial credit or in the requirements for obtaining credit;
- Engage in any conduct relating to the provision of housing that otherwise make unavailable or denies the rental of a dwelling unit;
- Make, print or publish (or cause to make, print or publish) notices, statements or advertisements that indicate preferences or limitations based on protected class status;
- Represent a dwelling is not available when it is in fact available;
- Refuse to grant a reasonable accommodation or a reasonable modification to a person with a disability;
- Deny access to, or membership or participation in, associations or other services organizations or facilities relating to the business of renting a dwelling or discriminate in the terms or conditions of membership or participation; or
- Engage in harassment or quid pro quo negotiations related to the rental of a dwelling unit.

Minnesota Housing has a commitment to affirmatively further fair housing for individuals with disabilities by promoting the accessibility requirements set out in the Fair Housing Act, which establish design and construction mandates for covered multifamily dwellings and requires those in the business of buying and selling dwellings to make reasonable accommodations and to allow persons with disabilities to make reasonable modifications.

Under certain circumstances, applicants will be required to submit an Affirmative Fair Housing Marketing Plan at the time of application, to update the plan regularly and to use affirmative fair housing marketing practices in soliciting renters, determining eligibility and concluding all transactions.

As a condition of funding through Minnesota Housing, housing providers are not permitted to refuse to lease a unit to, or discriminate against, a prospective resident solely because the prospective resident has a Housing Choice Voucher or other form of tenant-based rental assistance.

1.10 Minnesota Government Data Practices

Minnesota Housing, and any party entering into a contract with Minnesota Housing, must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data

provided by Minnesota Housing under the contract, and as it applies to all data created, collected, received, stored, used, maintained or disseminated by the contracting party under the contract. The civil remedies of Minnesota Statutes Section 13.08 apply to the release of the data referred to in this section by either the contracting party or Minnesota Housing. If the contracting party receives a request to release the data referred to in this section, the contracting party must notify Minnesota Housing. Minnesota Housing will give the contracting party instructions concerning the release of the data to the requesting party before the data is released. The contracting party's response to the request shall comply with applicable law.

1.11 Prevailing Wage

Under certain circumstances, awards of Minnesota Housing funds may trigger state prevailing wage requirements under Minnesota Statutes Chapter 177 or Minnesota Statutes Section 116J.871. In broad terms, Minnesota Statutes Chapter 177 applies to an award of $25,000 or greater for housing that is publicly owned. Minnesota Statutes Section 116J.871 applies to awards for non-publicly owned housing that meet the following conditions: (1) new housing construction (not rehabilitation); (2) a single entity receives from Minnesota Housing $200,000 or more of grant proceeds or $500,000 of loan proceeds.

Minnesota Statutes Section 116J.871 sets out several exceptions to the applicability of prevailing wage including (1) rehabilitation of existing housing; (2) new housing construction in which total financial assistance at a single project site is less than $100,000; and (3) financial assistance for the new construction of fully detached single-family affordable homeownership units for which the financial assistance covers no more than ten fully detached single-family affordable homeownership units.

All determinations regarding prevailing wage are made by the Minnesota Department of Labor and Industry. All questions regarding state prevailing wages and compliance requirements should be directed to that agency as follows:

Division of Labor Standards and Apprenticeship
State Program Administrator
443 Lafayette Road N, St. Paul, MN 55155
651.284.5091 or dli.prevwage@state.mn.us

If, after a determination by the Minnesota Department of Labor that prevailing wage does apply, a contractor or subcontractor fails to adhere to prevailing wage laws, then that contractor or subcontractor could face civil and/or criminal liability.

Electrical Assessment

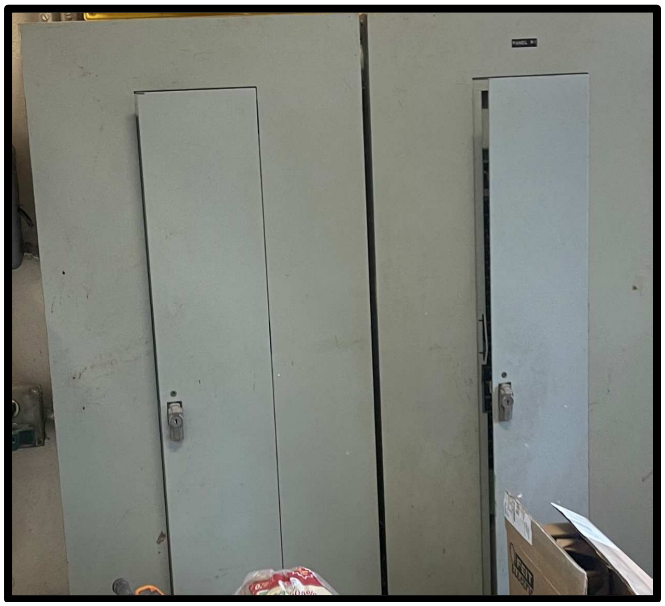
John Carrol Building
300 Grand Ave. W.
South St. Paul, MN 55075

03/08/21

Main Service Equipment

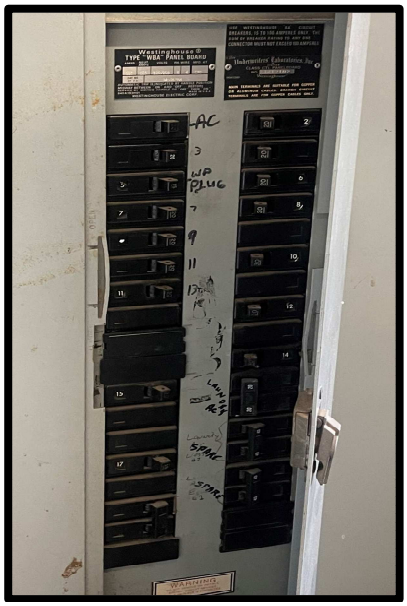
Rating: 1600 Amps at 120/208 Volts, 3-Phase
Loads: 167 Dwelling Units and 2-4 House Panels
Age: 1974 (47 years in service)
Condition: Fair/Poor (preventative maintenance needed)



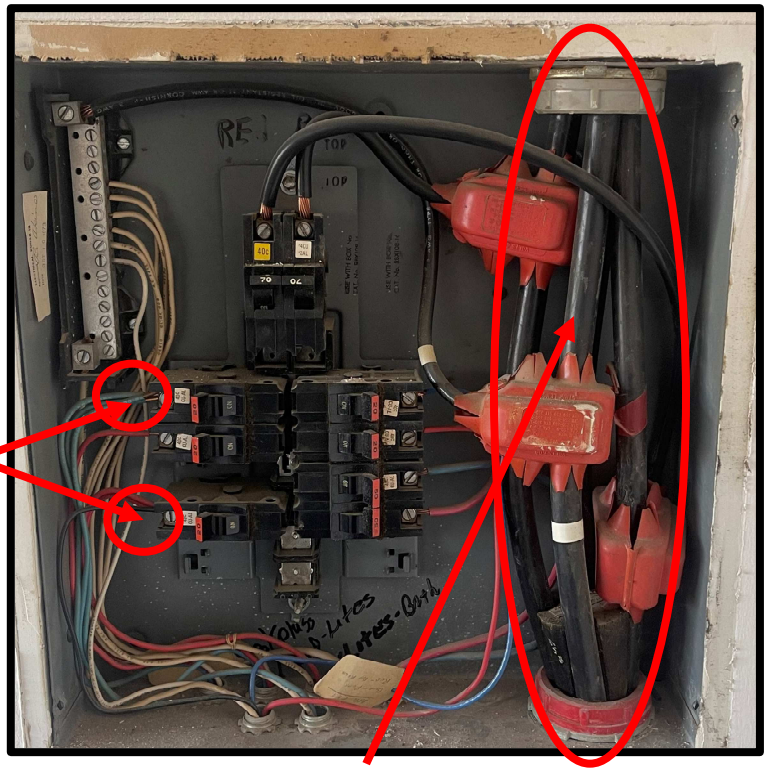


House Panels

Rating: 200 Amps/Pnl.
120/208 Volt
Loads: Common Areas
Age: 1974 (47 years)
Condition: Fair/Poor
(maintenance needed)



Dwelling Unit Subpanels (167 - typical)
Rating: 70 Amps at 120/208 Volts
Loads: Lighting, receptacles and electric ranges
Age: 1974 (47 years)
Condition: Bad/Hazardous



1. The Federal Pacific Electric (FPE) circuit breakers were taken off the market 40+ years ago when it was proven they cause electrical fires due to basic design flaws. These circuit breaker will most likely not trip or shut off when a fault occurs.

2. Multiple circuits fed from the same circuit breakers. Code requires each branch circuit to be fed from a dedicated circuit breaker.

3. Panels lack Arc-fault (AFCI) protection as required by code. AFCI circuit breakers protect against electrical fires by detecting electrical arcs caused by loose or poor electrical connections and shutting off before a fire can get started.

4. The existing FPE panels are classified as “feed through” (FT) panels. The FT panel configuration provides extra room along the right side for continuous main feeders to pass through from one floor to another. NOTE: Although FT panels work very well in multi level building, they are very expensive to replace.

Devices

Most existing devices (switches and receptacles) are well past their normal life expectancy, worn-out and/or damaged. These devices present a serious risk of electrical fire and/or electrical shock.







WARNING – The existing conditions present a serious risk of electrical fire and/or electrical shock. DO NOT USE until repaired and inspected.

Electrical Assessment

Nan McKay Building
200 Marie Ave.
South St. Paul, MN 55075

03/08/21

Main Service Equipment

Rating: 2800 Amps at 120/208 Volts, 3-Phase
Loads: 131 Dwelling Units and 2 House Panels
Age: 1975 (46 years in service)
Condition: Fair (preventative maintenance needed)





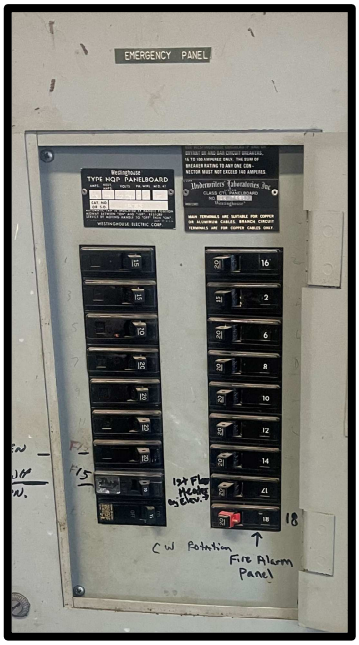
House Panels

Rating: (7-9) 200 Amp
120/208 Volt
Loads: Common Areas
Age: 1974 (47 years)
Condition: Fair/Poor
(maintenance needed)







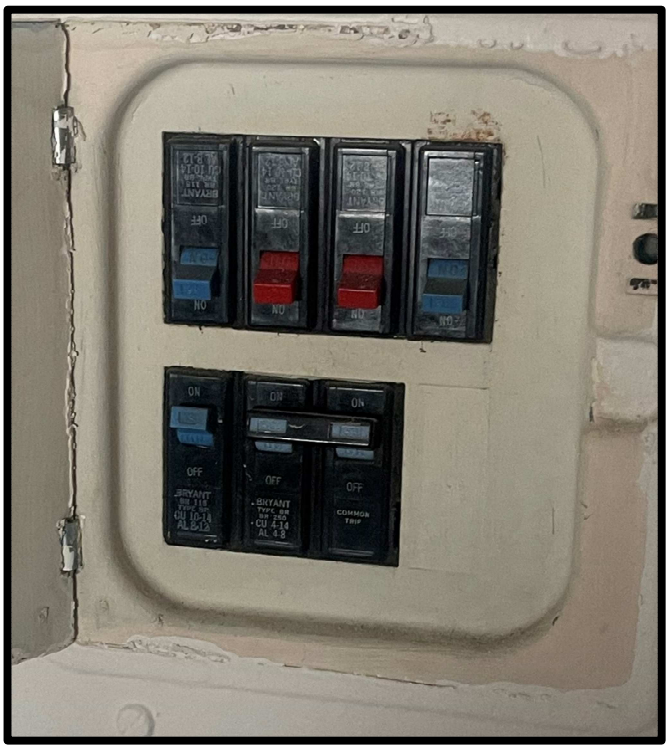


House Panels (cont.)





Dwelling Unit Subpanels (167 - typical)
Rating: 60 Amps at 120/208 Volts
Loads: Lighting, receptacles and electric ranges
Age: 1975 (46 years)
Condition: Poor/Bad/Hazardous



1. The existing Bryant panels lack Arc-fault (AFCI) protection as required by code.

2. Bryant Electric went out of business in 1999 and are no longer manufactured or available.

Devices

Most all existing devices (switches and receptacles) are well past their normal life expectancy, worn-out and/or damaged. These devices present a serious risk of electrical fire and/or electrical shock.

WARNING – The existing conditions present a serious risk of electrical fire and/or electrical shock. DO NOT USE until repaired and inspected.

SOUTH ST. PAUL HOUSING & REDEVELOPMENT AUTHORITY

JOHN CARROLL APARTMENTS
ROOF REPLACEMENT PROJECT
300 GRAND AVE WEST, SOUTH ST. PAUL, MN 55075

GENERAL NOTES

GENERAL NOTES:

1. ITEMS LISTED BELOW ARE APPLICABLE TO ALL CONTRACTORS, SUBCONTRACTORS, VENDORS, SUPPLIERS AND MATERIAL HANDLERS.
2. INFORMATION FOR THIS PROJECT WAS DERIVED FROM ORIGINAL BUILDING PLANS BY: **THE CERNY ASSOCIATES INC.** ARCHITECTS, DATED **JANUARY 11, 1973**; AND FROM ARCHITECT'S SITE OBSERVATIONS. A COPY OF THE DOCUMENTS IS AVAILABLE AT THE OWNER'S OFFICE FOR CONTRACTORS REFERENCE DURING BIDDING UPON REQUEST.
3. THE CONTRACT DOCUMENTS INCLUDE THE WORKING DRAWINGS, SPECIFICATIONS, ADDENDA, MODIFICATIONS, AND THE BID DOCUMENTS. CONTRACT DOCUMENTS ARE COMPLIMENTARY AND WHAT IS REQUIRED BY ONE SHALL BE BINDING AS IF REQUIRED BY ALL.
4. THE CONTRACT DOCUMENTS ARE THE INSTRUMENTS OF SERVICE AND SHALL REMAIN THE PROPERTY OF THE ARCHITECT WHETHER THE PROJECT FOR WHICH THEY ARE PREPARED IS EXECUTED OR NOT. THE CONTRACT DOCUMENTS ARE NOT TO BE USED BY THE OWNER FOR OTHER PROJECTS OR EXTENSIONS TO THE PROJECT NOR ARE THEY TO BE MODIFIED IN ANY MANNER WHATSOEVER EXCEPT BY AGREEMENT IN WRITING AND WITH APPROPRIATE COMPENSATION TO THE ARCHITECT.
5. ALL WORK SHALL COMPLY WITH THE APPLICABLE CODES, AMENDMENTS, RULES, REGULATIONS, ORDINANCES, LAWS, ORDERS, APPROVALS, ETC., THAT ARE REQUIRED BY PUBLIC AUTHORITIES. IN THE EVENT OF CONFLICT, THE MOST STRINGENT REQUIREMENTS SHALL COMPLY. REQUIREMENTS INCLUDE, BUT ARE NOT LIMITED TO THE CURRENT APPLICABLE EDITIONS OR PUBLICATIONS.
6. FOR THE PURPOSES OF THIS PROJECT, ANY REFERENCE TO G.C. SHALL BE THE SAME AS "PRIME CONTRACTOR.

CONTRACT DOCUMENT NOTES:

1. THIS SET OF DOCUMENTS IS NOT ALL INCLUSIVE AND IS MEANT TO SHOW THE INTENT OF THE SCOPE OF WORK. THE CONTRACTOR SHALL BID ALL WORK INVOLVED WITH A NORMALLY ANTICIPATED SCOPE OF WORK, INCLUDING RESIDUAL WORK TO ACHIEVE A COMPLETELY FINISHED PROJECT.
2. ALL THE SHEETS LISTED IN THE DRAWING INDEX AND SPECIFICATIONS COMPRISE THE CONSTRUCTION DOCUMENTS FOR THIS PROJECT. THE G.C. IS RESPONSIBLE FOR ALL THE WORK DEFINED IN THESE CONSTRUCTION DOCUMENTS INCLUDING DISTRIBUTING DRAWINGS TO SUB-CONTRACTORS FOR BIDDING PURPOSES. IT IS NOT RECOMMENDED THAT INDIVIDUAL SHEETS BE GIVEN TO SUB-CONTRACTORS FOR BIDDING OR CONSTRUCTION. THE ENTIRE SET OF DRAWINGS AND SPECIFICATIONS, NOT ANY INDIVIDUAL SHEETS, DEFINE THE WORK REQUIRED UNDER THE GENERAL CONTRACT.
3. IN THE EVENT OF CONFLICT BETWEEN DATA SHOWN ON DRAWINGS AND DATA SHOWN IN THE SPECIFICATIONS, THE SPECIFICATIONS SHALL GOVERN. DIMENSIONS NOTED ON DRAWINGS SHALL TAKE PRECEDENCE OVER SCALED DIMENSIONS. DETAIL DRAWINGS TAKE PRECEDENCE OVER DRAWINGS OF SMALL SCALE. SHOULD THE CONTRACTOR AT ANY TIME DISCOVER AN ERROR IN A DRAWING OR SPECIFICATION, OR A DISCREPANCY OR VARIATION BETWEEN DIMENSIONS ON DRAWINGS AND MEASUREMENTS AT SITE, OR LACK OF DIMENSIONS OR OTHER INFORMATION, IT SHALL BE BROUGHT TO THE ARCHITECT'S ATTENTION AND SHALL NOT PROCEED WITH WORK AFFECTED UNTIL CLARIFICATION OR RESOLUTION HAS BEEN MADE.
4. "SIMILAR" (SIM) MEANS COMPARABLE CHARACTERISTICS FOR CONDITIONS NOTED. CONTRACTOR TO VERIFY DIMENSIONS AND ORIENTATION.
5. "TYPICAL" (TYP) MEANS IDENTICAL FOR CONDITIONS NOTED.
6. DO NOT SCALE DRAWINGS, WRITTEN DIMENSIONS GOVERN. VERIFY DIMENSIONS WITH FIELD CONDITIONS PRIOR TO ORDERING MATERIALS AND CONSTRUCTION, IF DISCREPANCIES ARE DISCOVERED BETWEEN FIELD CONDITIONS AND DRAWINGS OR BETWEEN INDIVIDUAL DRAWINGS, CONTACT ARCHITECT FOR RESOLUTION BEFORE PROCEEDING.
7. HORIZONTAL DIMENSIONS INDICATED ARE TO/FROM FINISHED FACE OF CONSTRUCTION, EXCEPT AS NOTED.
8. DIMENSIONS ARE NOT ADJUSTABLE WITHOUT APPROVAL OF ARCHITECT UNLESS NOTED +/-.
9. ALL SYMBOLS AND ABBREVIATIONS USED ON THE DRAWINGS ARE CONSIDERED TO BE CONSTRUCTION STANDARDS. IF THE CONTRACTOR HAS QUESTIONS REGARDING SYMBOLS & ABBREVIATIONS USED, OR THEIR EXACT MEANING, THE ARCHITECT SHALL BE NOTIFIED FOR CLARIFICATION.

CONSTRUCTION NOTES:

1. CONTRACTORS AND SUBCONTRACTORS SHALL VISIT THE JOB SITE AND BECOME FAMILIAR WITH EXISTING CONDITIONS BEFORE SUBMITTING PRICING AND PROCEEDING WITH ANY WORK.
2. ALL CONTRACTORS AND SUBCONTRACTORS ARE RESPONSIBLE FOR SUBMITTING FOR APPROVALS AND FOR PAYING FOR AND OBTAINING ALL THEIR OWN PERMITS AND/OR LICENSES AS MAY BE REQUIRED BY GOVERNING AUTHORITIES.
3. ALL CONTRACTORS AND SUBCONTRACTORS ARE RESPONSIBLE FOR MAINTAINING REQUIRED LICENSES AND INSURANCES.
4. GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR CHECKING CONTRACT DOCUMENTS, FIELD CONDITIONS AND DIMENSIONS FOR ACCURACY AND CONFIRMING THAT WORK IS AS SHOWN BEFORE PROCEEDING WITH CONSTRUCTION AND ORDERING OF MATERIALS. CLARIFICATIONS REGARDING ANY CONFLICTS SHALL BE ACHIEVED PRIOR TO RELATED WORK BEING STARTED.
5. CONTRACTOR SHALL ORDER AND SCHEDULE DELIVERY OF MATERIALS IN AMPLE TIME TO AVOID DELAYS IN CONSTRUCTION. IF AN ITEM IS FOUND TO BE UNAVAILABLE, CONTRACTOR SHALL NOTIFY ARCHITECT IMMEDIATELY TO ALLOW ARCHITECT A REASONABLE AMOUNT OF TIME TO SELECT AN APPROPRIATE SUBSTITUTE.
6. MATERIALS AND WORKMANSHIP SPECIFIED BY REFERENCE TO NUMBER, SYMBOL OR TITLE OF A SPECIFICATION SUCH AS COMMERCIAL STANDARDS, FEDERAL SPECIFICATIONS, TRADE ASSOCIATION STANDARD OR OTHER SIMILAR STANDARD, SHALL COMPLY WITH REQUIREMENTS IN LATEST EDITION OR REVISIONS THEREOF AND WITH ANY AMENDMENT OR SUPPLEMENT THERETO IN EFFECT ON DATE OF ORIGIN ON THIS PROJECT'S CONTRACT DOCUMENTS. SUCH STANDARD, EXCEPT AS MODIFIED HEREIN, SHALL HAVE FULL FORCE AND EFFECT AS THOUGH PRINTED ON CONTRACT DOCUMENTS.
7. ONLY NEW ITEMS OF RECENT MANUFACTURER, OF STANDARD QUALITY, FREE FROM DEFECTS, WILL BE PERMITTED ON THE WORK. REJECTED ITEMS SHALL BE REMOVED IMMEDIATELY FROM THE WORK AND REPLACED WITH ITEMS OF THE QUALITY SPECIFIED. FAILURE TO REMOVE REJECTED MATERIALS AND EQUIPMENT SHALL NOT RELIEVE THE CONTRACTOR FROM THEIR RESPONSIBILITY FOR QUALITY AND CHARACTER OF ITEMS USED NOR FROM ANY OTHER OBLIGATION IMPOSED ON HIM BY THE CONTRACT.
8. WHEN ANY ITEM OR FINISH IS SCHEDULED TO MATCH EXISTING, SUPPLIER, VENDOR OR SUBCONTRACTOR SHOULD ALSO VISIT SITE IN ORDER TO PROVIDE A PERFECT MATCH. NOTIFY ARCHITECT IF DOCUMENTS CALL OUT FOR AN ITEM THAT DOES NOT MATCH INSTALLED EXISTING CONDITIONS.
9. ALL FINISHED WORK SHALL BE FIRM, WELL ANCHORED, IN TRUE ALIGNMENT, PLUMB, LEVEL, WITH SMOOTH, CLEAN, UNIFORM APPEARANCE WITHOUT WAVES, DISTORTIONS, HOLES, MARKS, CRACKS, STAINS, OR DISCOLORATION. THE FINISH WORK SHALL NOT HAVE EXPOSED UNSIGHTLY ANCHORS OR FASTENERS AND SHALL NOT PRESENT HAZARDOUS, UNSAFE CORNERS. ALL WORK SHALL HAVE THE PROVISION FOR EXPANSION, CONTRACTION AND SHRINKAGE AS NECESSARY TO PREVENT CRACKS, BUCKLING AND WARPING DUE TO TEMPERATURE AND HUMIDITY CONDITIONS.
10. THE ARCHITECT RESERVES THE RIGHT TO REQUIRE THE CONTRACTOR TO ADD SEALANT TO THE FINISHED WORK IF IN THEIR OPINION THE COMPLETED WORK IS NOT SUFFICIENTLY FINISHED OR THE FINAL WORK WOULD BE ENHANCED BY THE ADDITION OF THE SEALANT.
11. ATTACHMENTS, CONNECTIONS OR FASTENINGS OF ANY NATURE ARE TO BE PROPERLY AND PERMANENTLY SECURED IN CONFORMANCE WITH BEST PRACTICES AND MATERIAL MANUFACTURERS INSTALLATION INSTRUCTIONS, AND THE CONTRACTOR IS RESPONSIBLE FOR INSTALLING THEM ACCORDING TO THESE CONDITIONS. THE DRAWINGS SHOW ONLY SPECIAL CONDITIONS TO ASSIST THE CONTRACTOR, THEY DO NOT ILLUSTRATE EVERY SUCH CONDITION AND DETAIL.
12. CONTRACTORS, SUB-CONTRACTORS OR SUPPLIERS SHALL NOT PROCEED WITH ANY WORK FOR WHICH THEY EXPECT ADDITIONAL COMPENSATION BEYOND THE WRITTEN CONTRACT UNLESS HE RECEIVES WRITTEN AUTHORIZATION FROM OWNER. FAILURE TO OBTAIN SUCH AUTHORIZATION MAY INVALIDATE ANY CLAIM FOR ADDITIONAL COMPENSATION.
13. REVIEW PROJECT SUMMARY IN SPECIFICATION FOR ADDITIONAL INFORMATION RELATED TO PROJECT RESPONSIBILITY AND LIQUIDATED DAMAGES.
14. CONTRACTOR SHALL PROVIDE MANUFACTURE'S SPECIFICATIONS, INSTALLATION INSTRUCTIONS, SHOP DRAWINGS AND SAMPLES FOR REVIEW AND APPROVAL OF ALL MATERIALS AND METHODS TO BE USED PRIOR TO ORDERING OR PROCEEDING WITH WORK. CONTACT ARCHITECT PRIOR TO INSTALLATION IF ITEM DOES NOT MATCH APPROVED SHOP DRAWINGS OR SAMPLES.
15. GENERAL CONTRACTOR SHALL REVIEW, APPROVE, ADD REQUIRED FIELD DIMENSIONS, STAMP AND FORWARD SHOP DRAWINGS AND SAMPLES TO ARCHITECT FOR APPROVAL. PROVIDE SUFFICIENT COPIES SO THAT ARCHITECT/ENGINEER MAY RETAIN RECORD COPY.
16. CHANGES IN SHOP DRAWINGS FROM DESIGN OR SPECIFICATIONS INDICATED MUST BE NOTED TO ARCHITECT FOR APPROVAL. ANY ITEM CLEARLY DIFFERENT THAN DESIGN INDICATED MAY BE REJECTED IN FIELD AT SUPPLIERS COST EVEN WITH APPROVED SHOP DRAWINGS.
17. CONTRACTOR TO SCHEDULE SHOP DRAWING REVIEWS TO ALLOW 5-10 WORKING DAYS, EXCLUDING DELIVERY TIME TO AND FROM THE CONTRACTOR, FOR ARCHITECTURAL AND ENGINEERING REVIEW.
18. DAMAGE CAUSED BY THE CONTRACTOR TO THE SITE, BUILDING OR ITS SYSTEM(S) ARE TO BE REPAIRED IMMEDIATELY AFTER RECEIVING NOTICE. FAILURE TO DO SO COULD RESULT IN A CHARGE TO THE CONTRACTOR, WITH THE WORK TO BE COMPLETED BY OTHERS.
19. PROVIDE AND INSTALL PROTECTIVE COVERING(S) FOR SURFACES THAT ARE SUBJECT TO DAMAGE OF ANY TYPE.
20. COORDINATE WITH OWNER AND BUILDING MANAGER BEFORE BEGINNING ANY WORK THAT COULD AFFECT THE BUILDINGS FIRE ALARM, FIRE SPRINKLER SYSTEM(S) OR ACCESS/EGRESS FROM BUILDING.
21. VERY LIMITED SPACE INSIDE EXISTING BUILDING SHALL BE PROVIDED FOR STORAGE, STAGING, FINISHING OR FOR AN OFFICE UNLESS COORDINATED WITH THE OWNER.
22. ALL MATERIALS SHALL BE INSTALLED PER MANUFACTURES SPECIFICATIONS AND REQUIREMENTS.

ABBREVIATIONS

ALUM	Aluminum	FGL	Fiberglass	N., E., S., W.	North, East, South, West	V.I.F.	Verify In Field
A.F.F.	Above Finished Floor	FIN.	Finish	N.I.C.	Not in Contract		
				N.T.S.	Not to Scale	W/	With
BD.	Board	G.A.	Gauge	NO.	Number	W/O	Without
BITUM.	Bituminous	GEN.	General			WD.	Wood
BLK.	Block	GYP. BD.	Gypsum Board	O.C.	On Center	∠	Angle
						℄	Centerline
CLR.	Clear	HT.	Height	PT., PTD.	Painted	#	Number
CNU	Concrete Masonry Unit	HM	Hollow Metal			☒	Square
CONC.	Concrete	HORIZ.	Horizontal	REINF.	Reinforced	Ø	Round
CONT.	Continuous	H.R.	Handrail	REQ'D.	Required		
CONTR.	Contractor						
		MAT'L.	Material	S.F.	Square Foot		
DIA.	Diameter	MAX.	Maximum	S/S	Stainless Steel		
DIM.	Dimension	MECH.	Mechanical	SIM.	Similar		
DN.	Down	M.H.	Manhole	SPEC.	Specification		
		MIN.	Minimum	SQ. FT.	Square Foot		
EA.	Each			STL.	Steel		
ELEV.	Elevation						
EQUIP.	Equipment						
(E)	Existing			U.N.O.	Unless Otherwise Noted		

DRAWING SCHEDULE

04.22.2021 ISSUE FOR BID

- ☐ ISSUED FOR BID
- ● ISSUED FOR CONSTRUCTION W/ REVISED INFORMATION
- ○ ISSUED FOR ADDENDUM #1
- ◪ ISSUED FOR ADDENDUM #2

	ARCHITECTURAL	
☐	A000	TITLE SHEET / GENERAL NOTES / LOCATION PLAN
☐	A100	SITE PLAN
☐	A200	EXISTING CONDITIONS ROOF PLAN
☐	A201	DEMOLITION ROOF PLAN
☐	A210	ROOF PLAN - MAIN PERIMETER
☐	A211	ROOF PLAN - ATRIUM, BRIDGE & ELEVATOR
☐	A500	CONSTRUCTION DETAILS
☐	A501	CONSTRUCTION DETAILS
☐	A502	CONSTRUCTION DETAILS
	ENGINEERING	
☐	RA-100	ROOF ANCHOR PLAN (ALTERNATE #1)
☐	RA-200	ROOF ANCHOR DETAILS (ALTERNATE #1)

CODE REQUIREMENTS

BUILDING CODE:	2020 MINNESOTA BUILDING CODE	PLUMBING CODE:	2015 MINNESOTA PLUMBING CODE
CONSERVATION CODE:	2020 MINNESOTA CONSERVATION CODE FOR EXISTING BUILDINGS	ELECTRICAL CODE:	2017 NATIONAL ELECTRICAL CODE
ACCESSIBILITY CODE:	2020 MINNESOTA ACCESSIBILITY CODE	FIRE CODE:	2020 MINNESOTA STATE FIRE CODE
MECHANICAL CODE:	2020 MINNESOTA MECHANICAL AND FUEL GAS CODE	ENERGY CODE:	2020 MINNESOTA STATE ENERGY CODE

BUILDING REQUIREMENTS

- BUILDING WILL REMAIN OCCUPIED DURING CONSTRUCTION.
- CONTRACTOR TO ENSURE ALL HALLWAYS AND DOORS ARE ACCESSIBLE TO THE PUBLIC. ACCESS TO ALL FLOORS VIA THE STAIRWELL AND ELEVATORS AND ALL PUBLIC AREAS OF THE BUILDING SHALL BE AVAILABLE AT ALL TIMES TO THE OCCUPANTS OF THE BUILDING.
- CONTRACTOR TO SCHEDULE ALL WORK TO ACCOMMODATE THE HOUSING AUTHORITY'S AND IT'S OCCUPANTS USE OF ALL ROOMS IN THE BUILDING AND ACCESS TO ALL BUILDING ENTRANCES AND EXITS.
- CONTRACTOR SHALL NOT BLOCK ANY MEANS OF EGRESS DURING CONSTRUCTION.

PROJECT DIRECTORY

OWNER: SOUTH ST. PAUL HOUSING & REDEVELOPMENT AUTHORITY
125 THIRD AVENUE NORTH
SOUTH ST. PAUL, MN 55075
PHONE: (651) 554-3280
CONTACT: TIFFANY GREENE
EMAIL: tgreene@southstpaul.org

ARCHITECT: FINN DANIELS, INC.
2145 FORD PARKWAY, SUITE 301
ST. PAUL, MN 55116
PHONE: (651) 888-6883
CONTACT: DREW MAGNUSON
EMAIL: drew@finn-daniels.com

ENGINEER: ENCOMPASS, INC.
5435 FELTL ROAD
MINNETONKA, MN 55343
PHONE: (763)-999-4083
CONTACT: ANNE CRISP
EMAIL: acrisp@encompassinc.com

TELECOM CARRIERS: REFER TO PROJECT MANUAL

SYMBOLS

ROOM NAME — ROOM TAG

XX — EXISTING GRID ID

(XX) XXX XXX — KEYNOTE / GLAZING ID

X — REVISION ID

X AXXX — DETAIL PLAN REFERENCE

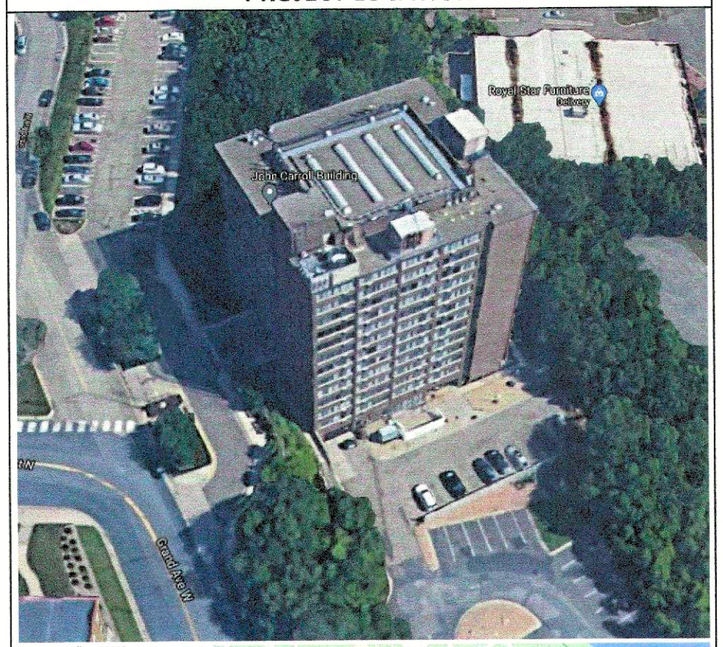
X AXXX XXX XXX — SECTION REFERENCE

XXX EL.=XXX'-X" — ELEVATION MARKER

X AXXX XXX XXX — ELEVATION REFERENCE

X AXXX XXX XXX — DETAIL SECTION REFERENCE

PROJECT LOCATION





finn daniels ARCHITECTS
2145 Ford Parkway, Suite 301
Saint Paul, Minnesota 55116
651.690.5525
www.finn-daniels.com

CONSULTANT:

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Architect in the State of Minnesota.

DANIEL M. DEGE
Typed Name

24872 — License Number
04.22.2021 — Date

PROJECT:

SOUTH ST. PAUL HRA

JOHN CARROLL APARTMENTS
ROOF REPLACEMENT PROJECT

300 GRAND AVE. WEST
SOUTH ST. PAUL, MN 55075

PROJECT NO.: 21002
DRAWN BY: ALM
CHECKED BY: DRM
ISSUES AND REVISIONS:
BID SET 04.22.2021

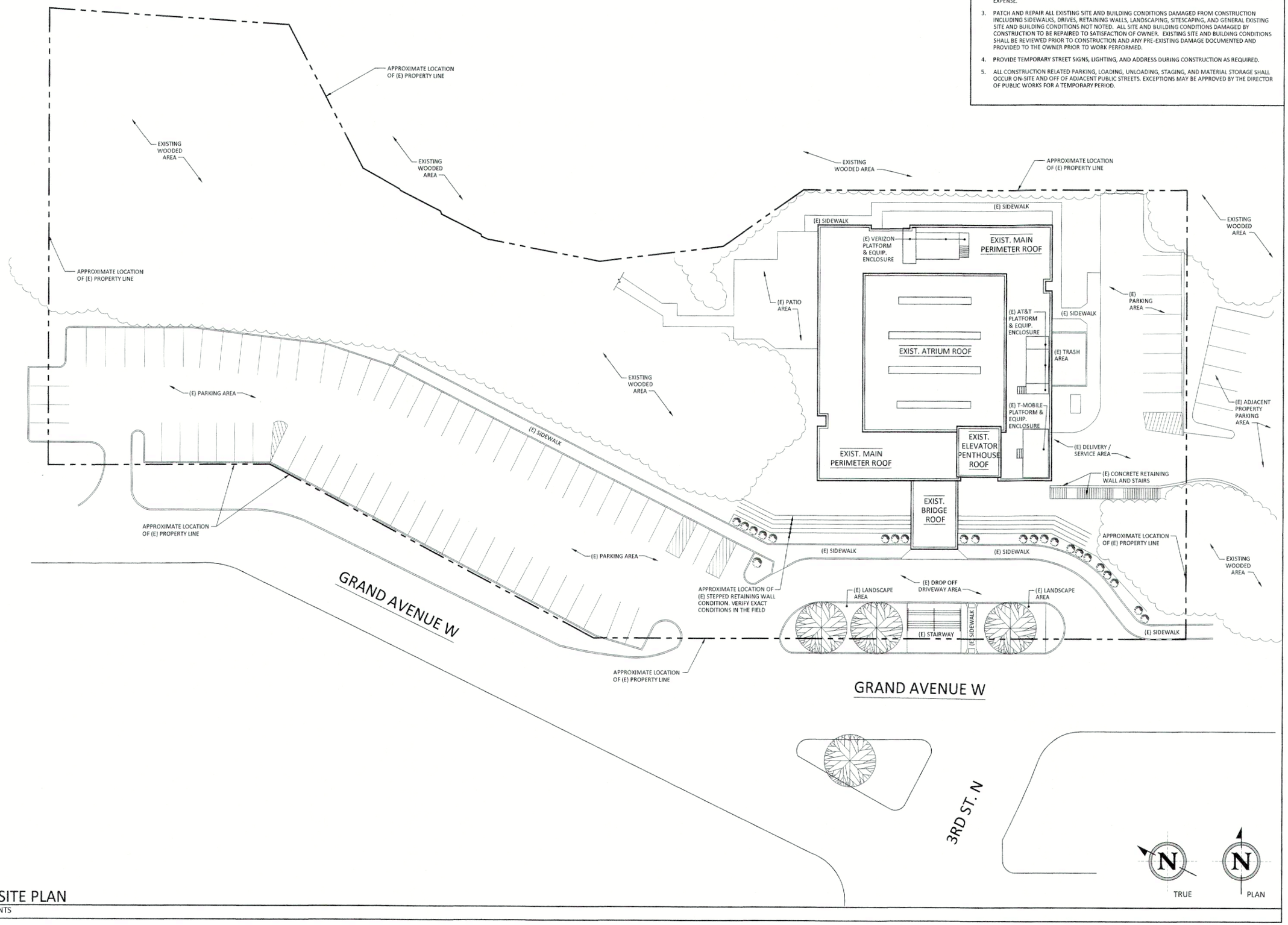
SHEET TITLE:

TITLE SHEET / GENERAL NOTES / LOCATION PLAN

A000

SITE NOTES

1. INFORMATION FOR THIS SITE PLAN WAS DERIVED FROM ORIGINAL BUILDING PLANS BY: **THE CERNY ASSOCIATES INC.** ARCHITECTS, DATED **JANUARY 11, 1973**; AND FROM ARCHITECT'S SITE OBSERVATIONS. SITE PLAN IS PROVIDED FOR GENERAL REFERENCE ONLY. GC IS RESPONSIBLE FOR THOROUGH REVIEW OF EXISTING SITE CONDITIONS PRIOR TO BID AND CONSTRUCTION AND FOR COORDINATION OF ALL REQUIREMENTS RELATIVE TO THE PROJECT.
2. PROTECT ADJACENT PROPERTIES DURING CONSTRUCTION. ANY DAMAGE TO BE REPAIRED AT CONTRACTOR'S EXPENSE.
3. PATCH AND REPAIR ALL EXISTING SITE AND BUILDING CONDITIONS DAMAGED FROM CONSTRUCTION INCLUDING SIDEWALKS, DRIVES, RETAINING WALLS, LANDSCAPING, SITESCAPING, AND GENERAL EXISTING SITE AND BUILDING CONDITIONS NOT NOTED. ALL SITE AND BUILDING CONDITIONS DAMAGED BY CONSTRUCTION TO BE REPAIRED TO SATISFACTION OF OWNER. EXISTING SITE AND BUILDING CONDITIONS SHALL BE REVIEWED PRIOR TO CONSTRUCTION AND ANY PRE-EXISTING DAMAGE DOCUMENTED AND PROVIDED TO THE OWNER PRIOR TO WORK PERFORMED.
4. PROVIDE TEMPORARY STREET SIGNS, LIGHTING, AND ADDRESS DURING CONSTRUCTION AS REQUIRED.
5. ALL CONSTRUCTION RELATED PARKING, LOADING, UNLOADING, STAGING, AND MATERIAL STORAGE SHALL OCCUR ON-SITE AND OFF OF ADJACENT PUBLIC STREETS. EXCEPTIONS MAY BE APPROVED BY THE DIRECTOR OF PUBLIC WORKS FOR A TEMPORARY PERIOD.



1 A100 SITE PLAN
NTS

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CONSULTANT:

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Architect in the State of Minnesota.

DANIEL M. DEGE
Typed Name

24872 License Number
04.22.2021 Date

PROJECT:

SOUTH ST. PAUL HRA

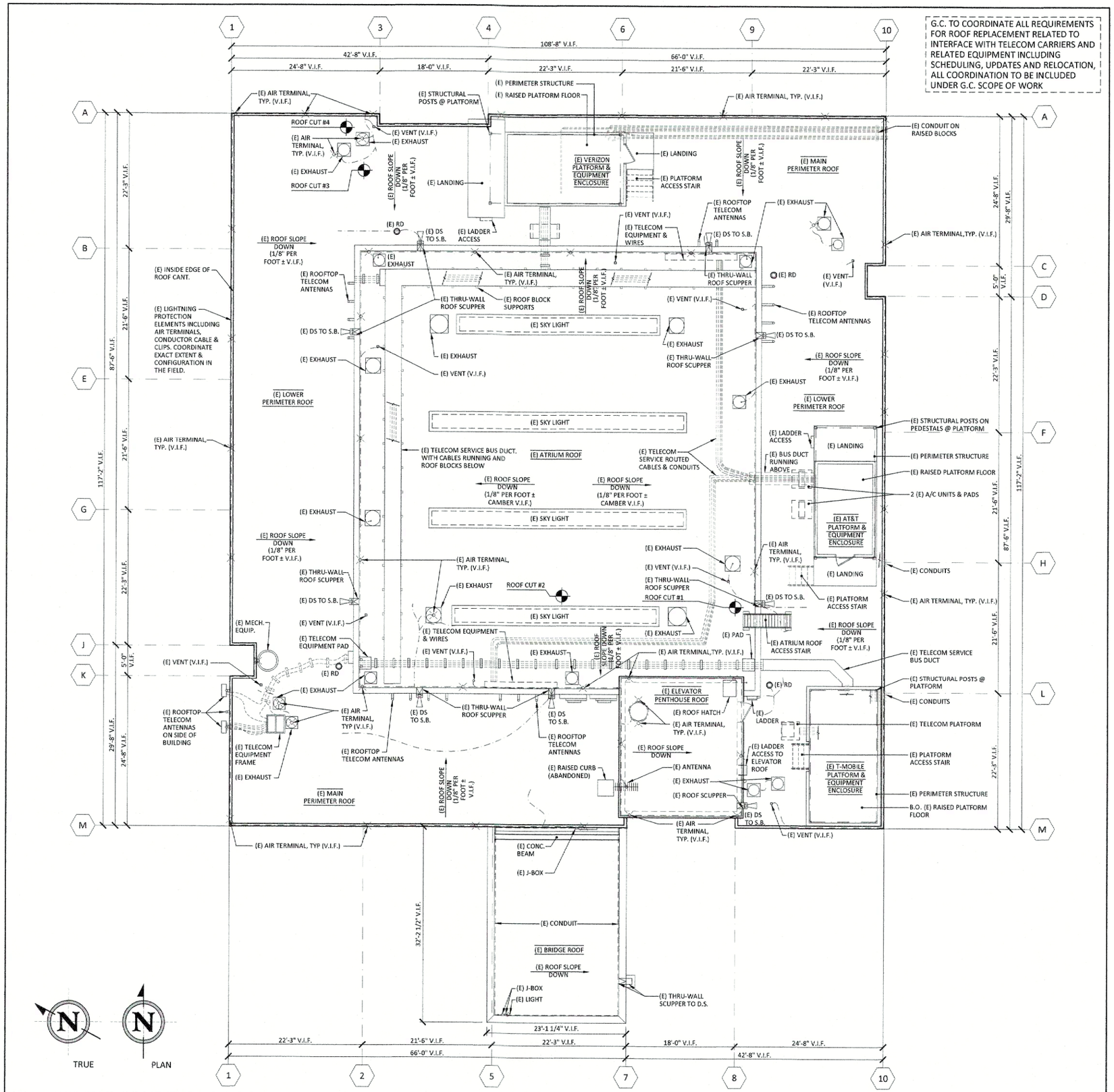
JOHN CARROLL APARTMENTS ROOF REPLACEMENT PROJECT

300 GRAND AVE. WEST
SOUTH ST. PAUL, MN 55075

PROJECT NO.: 21002
DRAWN BY: ALM
CHECKED BY: DRM
ISSUES AND REVISIONS:
BID SET 04.22.2021

SHEET TITLE:
SITE PLAN

A100



1 A200 EXISTING CONDITIONS ROOF PLAN
1/8"=1'-0"

EXISTING CONDITIONS - GENERAL NOTES

1. ALL INFORMATION THIS PLAN ON THE EXISTING CONDITIONS, EQUIPMENT & SIZE OF ROOF IS BEING PROVIDED FOR THE CONTRACTORS USE FOR THEIR OWN FIELD INVESTIGATION OF EXISTING CONDITIONS OF THE ROOF. IT IS EXPECTED THAT THE BIDDING CONTRACTORS INVESTIGATE FULLY ALL CONDITIONS OF THE EXISTING ROOF PRIOR TO BID. THE ARCHITECT DOES NOT GUARANTEE OR WARRANT THAT THE INFORMATION ON THIS SHEET IS ACCURATE BEYOND THEIR CASUAL OBSERVATION.
2. REFER TO A201 FOR DEMOLITION WORK.
3. REFER TO A210 & A211 FOR ALL NEW ROOF WORK.
4. CONTRACTOR WILL BE REQUIRED TO WORK WITH MULTIPLE TELECOM CARRIER CONTRACTORS. THE TELECOM CARRIER COMPANIES AND THEIR INDEPENDENT CONTRACTORS ARE RESPONSIBLE FOR MOVING THEIR EQUIPMENT ON THE ROOF TO ALLOW ROOFING TO TAKE PLACE IN SECTIONS. THE TELECOM CARRIER EQUIPMENT WILL NOT BE TOTALLY REMOVED FROM THE ROOF AND IS EXPECTED TO PRIMARILY REMAIN FUNCTIONAL.
5. CONTRACTOR SHALL COMPLY WITH TELECOM CARRIER COMPANY WORK RULES RELATING TO WORK IN THE AREA OF THEIR EQUIPMENT.
6. CONTRACTOR TO PROVIDE STRUCTURAL ENGINEERING AS MAY BE REQUIRED FOR ANY ROOF SUPPORT/ATTACHMENTS FOR CONTRACTORS USE IN ROOF REPLACEMENT WORK RELATED TO THE BUILDING. EXISTING ENCUMBRANCES MUST BE ACCOUNTED FOR IN THE PLANNING OF ANY SUCH SUPPORT.
7. PER EXISTING DRAWINGS BY: **THE CERNY ASSOCIATES INC.** ARCHITECTS, DATED **JANUARY 11, 1973**; EXISTING CONCRETE ROOF DECK IS PRECAST HOLLOW CORE PLANK ON THE EXIST. PERIMETER ROOF, PRECAST TEE AT THE EXIST. ATRIUM ROOF, PRECAST HOLLOW CORE PLANK AT THE EXIST. ELEVATOR PENTHOUSE AND PRECAST HOLLOW CORE PLANK AT THE EXIST. BRIDGE ROOF. CONTRACTOR SHALL REVIEW EXISTING DRAWINGS PRIOR TO ANY CONSTRUCTION. CONSTRUCTION MEANS AND METHODS, TECHNIQUES AND PROCEDURES SHALL ACCOUNT FOR EACH ROOF'S PARTICULAR CONSTRUCTION TYPE. ANY ATTACHMENTS, LOADS, NEW OPENINGS (TEMPORARY & PERMANENT) SHALL BE REVIEWED AND APPROVED BY A LICENSED STRUCTURAL ENGINEER AND EVIDENCE OF SUCH SHALL BE PROVIDED TO THE ARCHITECT AND OWNER FOR THEIR REVIEW AND ACCEPTANCE.
8. REFER TO PROJECT MANUAL FOR ADDITIONAL INFORMATION REGARDING ROOF CUTS. REFER TO SECTION 00 3100.

NOT USED

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CONSULTANT:

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Architect in the State of Minnesota.

DANIEL M. DEGE
Typed Name

24872 License Number
04.22.2021 Date

PROJECT:

SOUTH ST. PAUL HRA

JOHN CARROLL APARTMENTS ROOF REPLACEMENT PROJECT

300 GRAND AVE. WEST
SOUTH ST. PAUL, MN 55075

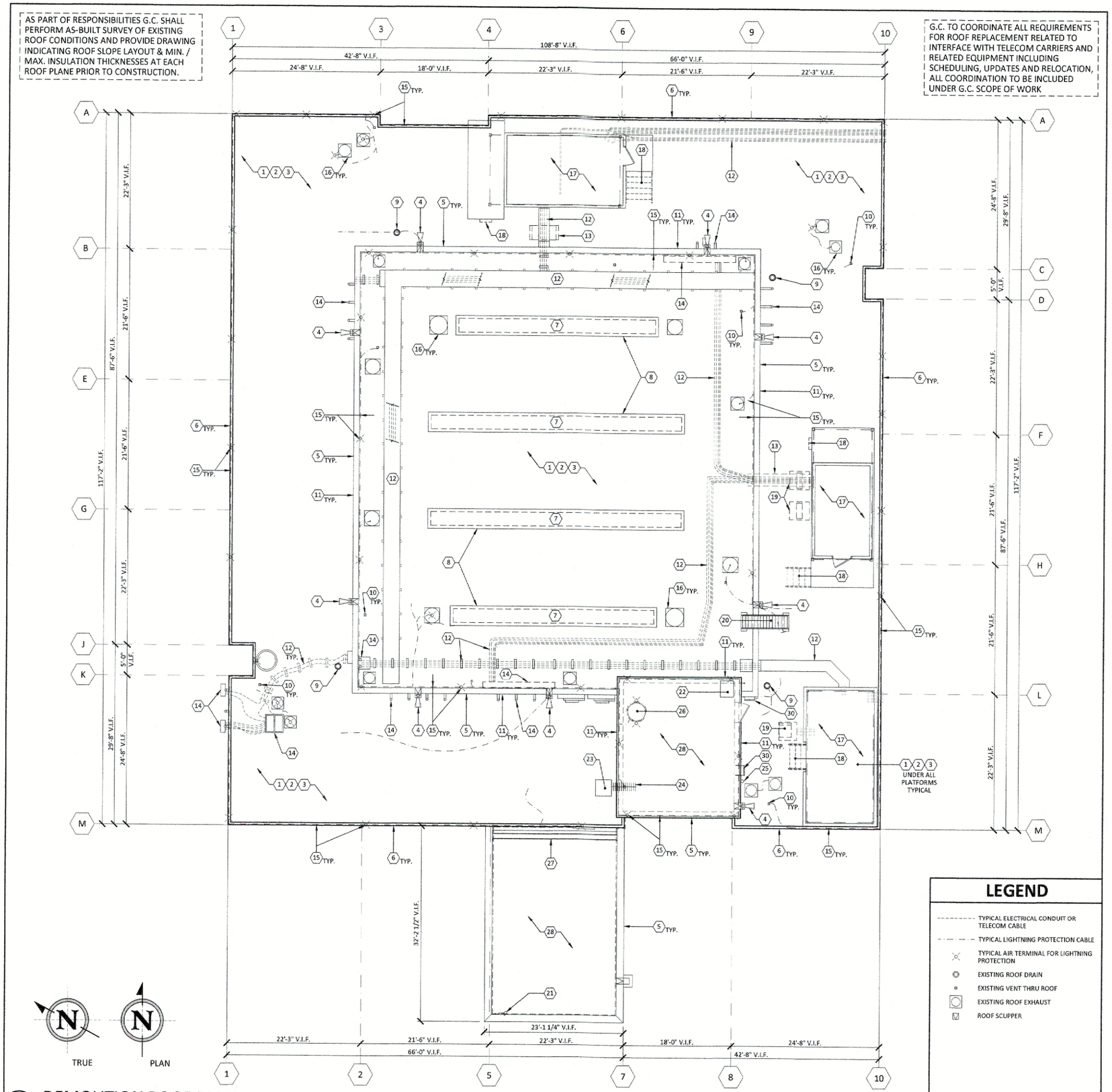
PROJECT NO.: 21002
DRAWN BY: ALM
CHECKED BY: DRM
ISSUES AND REVISIONS:
BID SET 04.22.2021

SHEET TITLE:
EXISTING CONDITIONS ROOF PLAN

A200

AS PART OF RESPONSIBILITIES G.C. SHALL PERFORM AS-BUILT SURVEY OF EXISTING ROOF CONDITIONS AND PROVIDE DRAWING INDICATING ROOF SLOPE LAYOUT & MIN. / MAX. INSULATION THICKNESSES AT EACH ROOF PLANE PRIOR TO CONSTRUCTION.

G.C. TO COORDINATE ALL REQUIREMENTS FOR ROOF REPLACEMENT RELATED TO INTERFACE WITH TELECOM CARRIERS AND RELATED EQUIPMENT INCLUDING SCHEDULING, UPDATES AND RELOCATION, ALL COORDINATION TO BE INCLUDED UNDER G.C. SCOPE OF WORK



1 A201 DEMOLITION ROOF PLAN
1/8"=1'-0"

LEGEND

- TYPICAL ELECTRICAL CONDUIT OR TELECOM CABLE
- TYPICAL LIGHTNING PROTECTION CABLE
- TYPICAL AIR TERMINAL FOR LIGHTNING PROTECTION
- EXISTING ROOF DRAIN
- EXISTING VENT THRU ROOF
- EXISTING ROOF EXHAUST
- ROOF SCUPPER

DEMOLITION - GENERAL NOTES

1. GENERAL CONTRACTOR TO PROVIDE DESIGN AND ERECTION OF ALL TEMPORARY SHORING AS REQUIRED FOR ALL WORK. COORDINATE WITH ALL TRADES AS REQUIRED. DEMOLITION IN AN ORDERLY AND CAREFUL MANNER AS REQUIRED TO ACCOMMODATE NEW WORK AND PREVENT MOVEMENT / SETTLEMENT OF STRUCTURE(S). G.C. SHALL BE SOLELY RESPONSIBLE FOR DESIGN AND PROVISION OF BRACING OR SHORING AS REQUIRED. CONTRACTOR WILL ASSUME LIABILITY FOR SUCH MOVEMENT, SETTLEMENT, DAMAGE, OR INJURY.
2. DO NOT BLOCK REQUIRED EXIT WAYS. ERECT BARRICADES AND PROVIDE TEMPORARY LIGHTING IF REQUIRED TO MAINTAIN EGRESS PATH OF TRAVEL. PROVIDE, ERECT, AND MAINTAIN BARRICADES, LIGHTING AND GUARD RAILS AS REQUIRED BY APPLICABLE REGULATORY ADVISORY TO PROTECT WORKERS.
3. DO NOT ALLOW DEMOLISHED MATERIALS TO COLLECT AND CREATE A HAZARD. REMOVE FROM SITE ON A REGULAR BASIS, DAILY IF REQUIRED.
4. COORDINATE STORAGE LOCATION OF MATERIALS TO BE SALVAGED WITH OWNER.
5. THE ARCHITECT HAS NO KNOWLEDGE OF, AND SHALL NOT BE LIABLE FOR, ANY DAMAGES CAUSED BY ANY EXISTING WATER LEAKAGE AND MOLDS.
6. COMPLY, WITH APPLICABLE LOCAL, STATE, AND FEDERAL CODES AND REGULATIONS PERTAINING TO SAFETY OF PERSONS, PROPERTY, AND ENVIRONMENTAL PROTECTION.
7. COORDINATE DEMOLITION WORK WITH ALL APPLICABLE TRADES INCLUDING STRUCTURAL, MECHANICAL, PLUMBING, ELECTRICAL AND TELECOM REQUIREMENTS.
8. EXERCISE EXTREME CARE DURING DEMOLITION AS TO NOT DISRUPT OR DAMAGE ANY EXISTING UTILITIES, CABLES, ETC. (WHERE EXISTING). CONTRACTOR WILL BEAR SOLE RESPONSIBILITY OF ANY DISRUPTION OR DAMAGE.
9. REMOVE ALL TELECOM / ELECTRICAL / MECHANICAL LINES THAT ARE NOT SPECIFICALLY INTENDED TO REMAIN. TELECOM / ELECTRICAL / MECHANICAL CONTRACTORS ARE TO FIELD VERIFY EXISTING CONDITIONS & DETERMINE EQUIPMENT SUITABLE FOR RE-USE. ALL UNUSED ELECTRICAL WIRING SHALL BE PULLED BACK TO THE MAIN SWITCH GEAR, ALL UNUSED PLUMBING LINES SHALL BE CAPPED IN THE WALL OR BELOW DECK.
10. ALL ABANDONED TELECOM, ELECTRICAL, TELEPHONE CONDUIT, PLUMBING LINES, DRAIN LINES, AND MECHANICAL DUCTWORK AS THE RESULT OF DEMOLITION SHALL BE REMOVED BACK TO THE ORIGINAL POINT. PLACE MARKERS TO INDICATE LOCATION OF DISCONNECTED SERVICES.
11. CONTRACTOR IS RESPONSIBLE FOR THE REMOVAL OF ALL UNUSED, ABANDONED, AND EXTRANEOUS ITEMS. BURNING MATERIAL ON SITE IS NOT PERMITTED.
12. ALL ITEMS LABELED AS "EXISTING TO REMAIN" ARE TO BE PROTECTED DURING DEMOLITION / CONSTRUCTION. CONTRACTOR WILL BEAR SOLE RESPONSIBILITY AND ASSOCIATED COSTS TO REPAIR DAMAGES INCURRED TO "LIKE NEW".
13. PRIOR TO BID, G.C. SHALL COORDINATE AND REVIEW IN FIELD ALL EXISTING ROOF ELEMENTS INDICATED "TO REMAIN". ELEMENTS TO BE REMOVED AND INSTALLATION RECONFIGURED AS REQUIRED TO RETAIN ROOF WARRANTY. INCLUDE IN BID ALL NECESSARY REQUIREMENTS FOR MATERIALS AND LABOR.

DEMOLITION PLAN - KEY NOTES

1. UNDER BASE BID: CAREFULLY REMOVE "PARTIAL" EXISTING ROOF ASSEMBLY COMPONENTS INCLUDING STONE BALLAST, PROTECTION SHEET AND MEMBRANE. PROTECT BALANCE OF ROOF ASSEMBLY IN PREPARATION FOR NEW ROOF ASSEMBLY AS SPECIFIED. DISPOSE OF ALL REMOVED MATERIALS. REPAIR ANY DAMAGED MATERIALS PRIOR TO OVERLAYING WITH NEW COVER BOARD. CONTRACTOR SHALL TEST ROOF FOR EVIDENCE OF WET INSULATION - SEE SPECIFICATIONS. PROTECT ALL COMPONENTS TO REMAIN DURING REMOVAL. RETAIN STONE BALLAST ONLY IF REQUIRED FOR NEW ROOF INSTALLATION.
2. UNDER ALTERNATE #2 AND ALTERNATE #3: CAREFULLY REMOVE EXISTING ROOF ASSEMBLY COMPONENTS INCLUDING STONE BALLAST, PROTECTION SHEET, MEMBRANE, PROTECTION/COVER BOARD IF EXISTING, INSULATION, FASTENERS AND VAPOR BARRIER DOWN TO EXISTING CONCRETE ROOF DECK AS REQUIRED FOR NEW ROOF ASSEMBLY AS SPECIFIED. DISPOSE OF ALL REMOVED MATERIALS. PROTECT ALL COMPONENTS TO REMAIN DURING REMOVAL. DO NOT DAMAGE CONCRETE ROOF DECK. RETAIN STONE BALLAST ONLY IF REQUIRED FOR NEW ROOF INSTALLATION. REFER TO PROJECT MANUAL FOR ALTERNATES.
3. UNDER BASE BID: MAINTAIN EXISTING ROOF SLOPES IF INSULATION IS PRIMARILY UNDAMAGED BY WATER. ANY AREAS REQUIRED TO BE PATCHED DUE TO WATER DAMAGE, CONSTRUCTION MEANS AND METHODS OF OTHER TRADES OR AS MAY BE REQUIRED BY ROOFING INSTALLATION SHALL BE PATCHED WITH "LIKE MATERIAL" INSULATION IN SAME DEPTHS STAGGERING JOINTS 6" MINIMUM WITH EACH ABOVE AND BELOW. CONTRACTOR TO ASSUME REPLACEMENT OF 640 S.F. OF INSULATION AND EXISTING COVER BOARD AT AN AVERAGE DEPTH OF 6" AS PART OF BASE BID.
4. EXISTING FLASHINGS, ROOF SCUPPER, DOWNSPOUT AND SPLASHBLOCK TO BE REMOVED AND DISPOSED.
5. EXISTING PERIMETER PARAPET FLASHING AND BLOCKING BELOW TO BE REMOVED AND DISPOSED.
6. EXISTING PERIMETER PARAPET FLASHING TO BE REMOVED AND DISPOSED. REPLACE BLOCKING BELOW AS REQUIRED FOR NEW DETAILING AND/OR WHERE DETERIORATED.
7. EXISTING SKYLIGHTS TO REMAIN UNDER BASE BID. REMOVE AND DISPOSE SKYLIGHTS UNDER ALTERNATE #5. REFER TO PROJECT MANUAL FOR ALTERNATES.
8. MODIFY SKYLIGHT ROOF CURB AS REQUIRED FOR ALTERNATE #5. REFER TO PROJECT MANUAL AND SKYLIGHT DETAILS FOR ALTERNATE #5.
9. REMOVE AND DISPOSE OF EXISTING ROOF DRAIN DOMES AND CLAMPING RINGS. REFER TO DETAIL 4/A501.
10. EXISTING VENT THRU ROOF (VTR) TO REMAIN. REMOVE EXISTING SLEEVE AND INSTALL APPROPRIATE SIZED BOOT TO WORK WITH NEW ROOF SYSTEM AS SPECIFIED. REFER TO DETAIL 3/A501.
11. REMOVE AND DISPOSE OF PERIMETER REGLET FLASHING. REFER TO DETAIL 7/A500.
12. EXISTING TELECOM BUSWAYS, CABLE AND CONDUIT.
13. EXISTING CABLE PROTECTION BRIDGE.
14. EXISTING TELECOM CARRIER EQUIPMENT.
15. REMOVE, SALVAGE AND REINSTALL EXISTING LIGHTNING PROTECTION SYSTEM COMPONENTS AND FASTENERS TO ALLOW FOR ROOF REPLACEMENT WORK. REFER TO DETAIL 5/A501.
16. EXISTING EXHAUST VENT. RECONFIGURE CURB AS REQUIRED FOR ROOF REPLACEMENT. REFER TO ROOF PLAN.
17. EXISTING TELECOM CARRIER PLATFORM. GC TO COORDINATE ACCESS TO ROOF BELOW AND AROUND ALL PLATFORMS.
18. EXISTING TELECOM PLATFORM ACCESS STAIR AND/OR LADDER. GC TO COORDINATE TEMPORARY REMOVAL AND ALL REQUIREMENTS FOR ROOF REPLACEMENT.
19. EXISTING TELECOM CARRIER ROOF MOUNTED EQUIPMENT TO BE PERMANENTLY RELOCATED OFF OF OWNER'S ROOF MEMBRANE.
20. EXISTING ATRIUM ROOF LADDER ACCESS TO BE REMOVED AS REQUIRED FOR ROOF REPLACEMENT AS REQUIRED. GC TO MAKE ANY NECESSARY MODIFICATIONS DUE TO ROOF REPLACEMENT AS REQUIRED.
21. EXISTING ROOF MOUNTED LIGHTING AND ANY RELATED CONDUIT TO BE CAREFULLY REMOVED AND STORED DURING ROOF INSTALL. LIGHTING TO BE REINSTALLED AS DIRECTED.
22. EXISTING ABANDONED ROOF HATCH TO BE REMOVED AND DISPOSED. REFER TO ROOF PLAN.
23. EXISTING ABANDONED ROOF CURB TO BE REMOVED AND DISPOSED. REFER TO ROOF PLAN.
24. EXISTING ROOF MOUNTED ANTENNA. COORDINATE REUSE OR REMOVAL WITH OWNER.
25. EXISTING PUBLIC SERVICE ANTENNA TO REMAIN.
26. EXISTING ELEVATOR EXHAUST VENT. RECONFIGURE CURB AS REQUIRED FOR ROOF REPLACEMENT AS REQUIRED. REFER TO ROOF PLAN.
27. EXISTING CONCRETE BEAM TO REMAIN. REFER TO ROOF PLAN.
28. CAREFULLY REMOVE EXISTING ROOF ASSEMBLY COMPONENTS INCLUDING ROCK BALLAST, PROTECTION SHEET, MEMBRANE, PROTECTION/COVER BOARD IF EXISTING, INSULATION, FASTENERS AND VAPOR BARRIER DOWN TO EXISTING CONCRETE ROOF DECK AS REQUIRED FOR NEW ROOF ASSEMBLY AS SPECIFIED. DISPOSE OF ALL REMOVED MATERIALS. PROTECT ALL COMPONENTS TO REMAIN DURING REMOVAL. DO NOT DAMAGE CONCRETE ROOF DECK. RETAIN BALLAST ONLY IF REQUIRED FOR NEW ROOF INSTALLATION.
29. UNDER ALTERNATE #1: REMOVE ROOF COVERING APPLICATION AS REQUIRED FOR INSTALLATION OF NEW ROOF MOUNTED SAFETY ANCHORS. ANY AREAS REQUIRED TO BE PATCHED DUE TO ROOF ANCHOR INSTALLATION SHALL BE PATCHED WITH "LIKE MATERIAL" INSULATION IN SAME DEPTHS STAGGERING JOINTS 6" MINIMUM WITH EACH ABOVE AND BELOW. REFER TO ROOF PLAN SHEET A210 AND ROOF ANCHOR PLAN RA-100. REFER TO PROJECT MANUAL FOR ALTERNATES.
30. EXISTING ROOF LADDER TO REMAIN.

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CONSULTANT:

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Architect in the State of Minnesota.

DANIEL M. DEGE
Typed Name

24872 License Number
04.22.2021 Date

PROJECT:

SOUTH ST. PAUL HRA

JOHN CARROLL APARTMENTS
ROOF REPLACEMENT PROJECT

300 GRAND AVE. WEST
SOUTH ST. PAUL, MN 55075

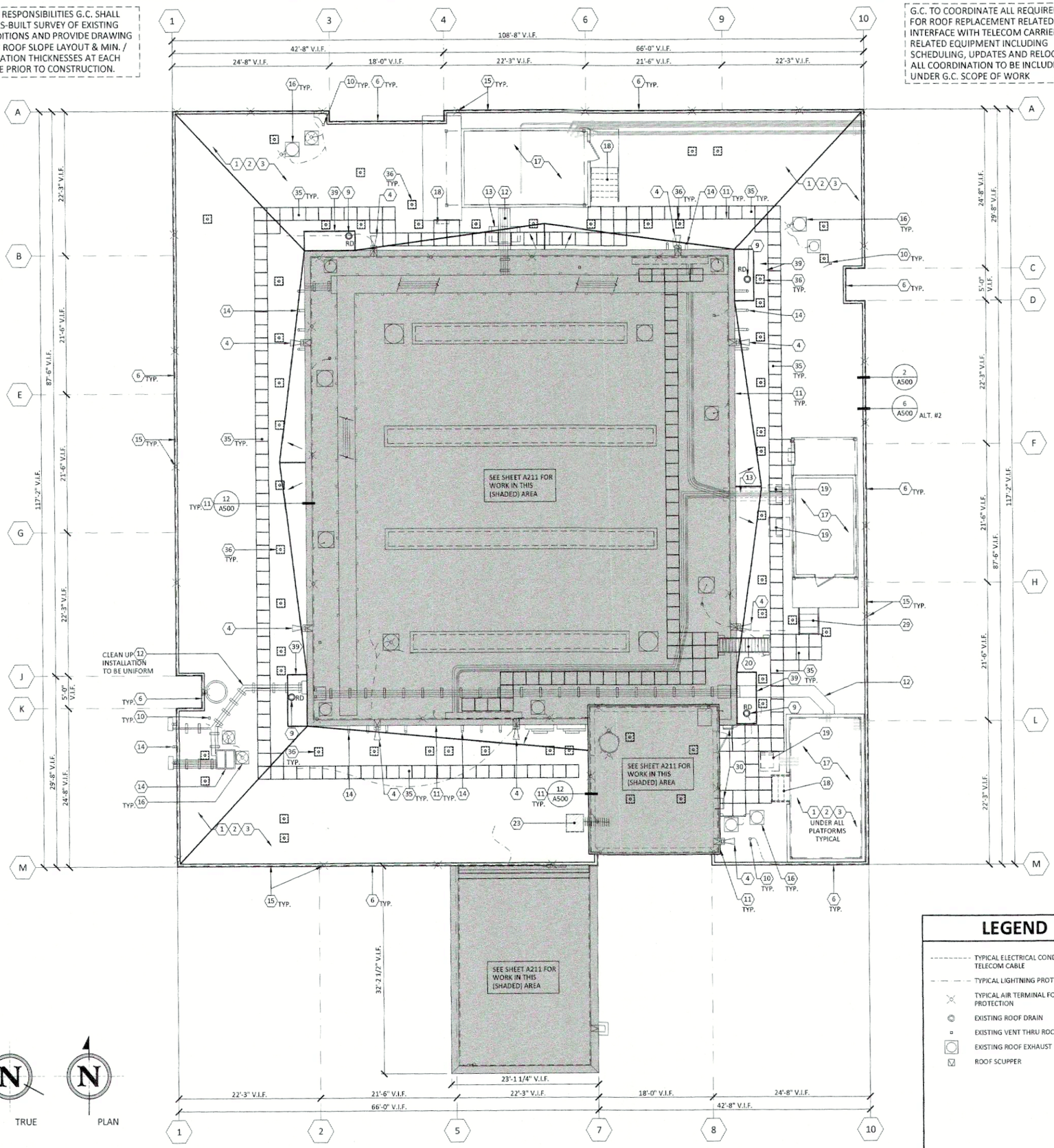
PROJECT NO.: 21002
DRAWN BY: ALM
CHECKED BY: DRM
ISSUES AND REVISIONS:
BID SET 04.22.2021

SHEET TITLE:
DEMOLITION ROOF PLAN

A201

AS PART OF RESPONSIBILITIES G.C. SHALL PERFORM AS-BUILT SURVEY OF EXISTING ROOF CONDITIONS AND PROVIDE DRAWING INDICATING ROOF SLOPE LAYOUT & MIN. / MAX. INSULATION THICKNESSES AT EACH ROOF PLANE PRIOR TO CONSTRUCTION.

G.C. TO COORDINATE ALL REQUIREMENTS FOR ROOF REPLACEMENT RELATED TO INTERFACE WITH TELECOM CARRIERS AND RELATED EQUIPMENT INCLUDING SCHEDULING, UPDATES AND RELOCATION. ALL COORDINATION TO BE INCLUDED UNDER G.C. SCOPE OF WORK



LEGEND

- TYPICAL ELECTRICAL CONDUIT OR TELECOM CABLE
- TYPICAL LIGHTNING PROTECTION CABLE
- TYPICAL AIR TERMINAL FOR LIGHTNING PROTECTION
- EXISTING ROOF DRAIN
- EXISTING VENT THRU ROOF
- EXISTING ROOF EXHAUST
- ROOF SCUPPER

1 A210 ROOF PLAN - MAIN PERIMETER
1/8"=1'-0"

ROOF PLAN - GENERAL NOTES

1. NOT ALL DETAILS, CONDITIONS, & CIRCUMSTANCES ARE INDICATED IN THESE DRAWINGS & DETAILS. CONTRACTOR TO INCLUDE IN BID ALL ITEMS NECESSARY FOR A FULL & COMPLETE RE-ROOFING PROJECT WHETHER SPECIFICALLY INDICATED IN DRAWINGS & DETAILS OR NOT.
2. ROOFING SYSTEM & MANUFACTURER WARRANTY COMPLIANCE ITEMS TAKE PRECEDENCE OVER ALL OTHER CRITERIA. INCLUDE ALL SUCH ITEMS, MATERIALS, MEANS, & METHODS NECESSARY TO COMPLY WITH MANUFACTURER'S SPECIFICATIONS & RECOMMENDATIONS FOR ROOFING SYSTEM & WARRANTY REQ'D.
3. ROOFING CONTRACTOR SHALL INCLUDE IN BID & COORD. MANUFACTURER'S REPRESENTATIVE ATTENDANCE AT A MINIMUM OF 3 SITE MEETINGS INCLUDING AT THE BEGINNING, MID-POINT, & UPON COMPLETION OF PROJECT.
4. ROOF PENETRATIONS INDICATED ON THIS PLAN WERE OBTAINED BY ARCHITECT'S ROOF SURVEY UNDER LESS THAN OPTIMAL CONDITIONS, AS WELL AS ORIGINAL BUILDING PLANS. CONTRACTORS SHALL FIELD VERIFY EXISTING CONDITIONS ANTICIPATING SOME DIFFERENCES FROM WHAT IS SHOWN ON THIS PLAN & ACCOUNT FOR SUCH IN BID. ADDITIONALLY, LOCATIONS OF ROOF PENETRATIONS ARE APPROXIMATE.
5. DIMENSIONS INDICATED ON THIS PLAN ARE APPROXIMATE & ARE GIVEN FOR CONTRACTOR'S CONVENIENCE. THEY SHALL BE CONFIRMED BY ALL BIDDING CONTRACTOR'S.
6. SEE INFO AVAILABLE TO BIDDERS FOR EXISTING ROOFING CORE INFORMATION.
7. PROVIDE CRICKETS ON HIGH SIDE OF ALL ROOF CURB CONDITIONS.

ROOF PLAN - KEY NOTES

1. UNDER BASE BID: PROVIDE/INSTALL NEW LOOSE LAID EPDM ROOF OVER NEW COVER BOARD OVER EXISTING SLOPED INSULATION BOARDS. APPLY STONE BALLAST FROM EXISTING INVENTORY REMOVED DURING ROOF DEMOLITION. REFER TO DETAIL 5/A500.
2. UNDER ALTERNATE #2 & ALTERNATE #3: PROVIDE/INSTALL NEW DIRECT ADHERED EPDM MEMBRANE OVER NEW COVER BOARD OVER NEW SLOPED INSUL. OVER VAPOR BARRIER. REFER TO PROJECT MANUAL & DETAIL 9/A500.
3. UNDER BASE BID: MAINTAIN EXISTING ROOF SLOPES IF INSULATION IS PRIMARILY UNDAMAGED BY WATER. ANY AREAS REQUIRED TO BE PATCHED DUE TO WATER DAMAGE, CONSTRUCTION MEANS & METHODS OF OTHER TRADES OR AS MAY BE REQUIRED BY ROOFING INSTALLATION SHALL BE PATCHED WITH "LIKE MATERIAL" INSULATION IN SAME DEPTHS STAGGERING JOINTS 6" MINIMUM WITH EACH ABOVE & BELOW. CONTRACTOR TO ASSUME REPLACEMENT OF 640 S.F. OF INSULATION & EXISTING COVER BOARD AT AN AVERAGE DEPTH OF 6" AS PART OF BASE BID.
4. PROVIDE/INSTALL NEW FLASHINGS, ROOF SCUPPER, DOWNSPOUT & SPLASHBLOCK TO REPLACE REMOVED EXISTING COMPONENTS. DESIGN CONFIGURATION, SIZES & COMPONENTS TO MATCH EXISTING. MAKE NECESSARY ADJUSTMENTS FOR NEW ROOF INSTALLATION. REFER TO DETAIL 6/A501 FOR SCUPPER CONDITION AT ATRIUM ROOF.
5. PROVIDE/INSTALL NEW PERIMETER PARAPET FLASHING & BLKG. REFER TO DETAIL 4/A500 AT ATRIUM & 7/A500 AT BRIDGE.
6. PROVIDE/INSTALL NEW PERIMETER PARAPET FLASHING. REPLACE BLKG. BELOW AS REQ'D. FOR NEW DETL. &/OR WHERE DETERIORATED. REFER TO DETAIL 2/A500 (BASE BID) & 6/A500 (ALT. #2, & ELEV. BASE BID).
7. EXISTING SKYLIGHTS TO REMAIN UNDER BASE BID. PROVIDE/INSTALL NEW SKYLIGHTS UNDER ALTERNATE #5. REFER TO PROJECT MANUAL & BALANCE OF DRAWINGS.
8. MODIFY SKYLIGHT ROOF CURB AS REQUIRED FOR ALTERNATE #5. REFER TO PROJECT MANUAL & SKYLIGHT DETAILS FOR ALTERNATE #5.
9. PROVIDE/INSTALL NEW COMPATIBLE ROOF DRAIN DOMES & CLAMPING RINGS. REFER TO DETAIL 4/A501.
10. EXISTING VENT THRU ROOF (VTR) TO REMAIN. PROVIDE/INSTALL NEW APPROPRIATE SIZED BOOT TO WORK WITH NEW ROOF SYSTEM AS SPECIFIED. REFER TO DETAIL 3/A501.
11. PROVIDE/INSTALL NEW PERIMETER REGLET FLASHING. REFER TO DETAIL 12/A500 (MAIN/ATRIUM).
12. EXISTING TELECOM BUSWAYS, CABLE & CONDUIT. PROVIDE/INSTALL NEW ROOF PROTECTION BLOCKS UNDER ALL UTILITY RUNS PLACED OVER NEW ROOF MEMBRANES COMPLYING WITH ROOF MEMBRANE MANUFACTURER CRITERIA. BLOCKS TO BE CONTINUOUS & PLACED UNDER FULL WIDTH OF UTILITY RUNS.
13. EXISTING CABLE PROTECTION BRIDGE.
14. EXISTING TELECOM CARRIER EQUIPMENT.
15. REINSTALL EXISTING LIGHTNING PROTECTION SYSTEM COMPONENTS & FASTENERS TO ALLOW FOR ROOF REPLACEMENT WORK. REPLACE ALL MISSING OR MALFUNCTIONING COMPONENTS REQUIRED FOR REINSTALLATION. REVIEW EXISTING CONDITIONS PRIOR TO BID. REFER TO DETAIL 5/A501.
16. EXISTING EXHAUST VENT. RECONFIGURE CURB AS REQUIRED FOR ROOF REPLACEMENT. REFER TO DETAIL 1 & 2/A501. RETAIN EXISTING CURB BLOCKING UNDER BASE BID & WRAP NEW MEMBRANE WITH FLASHING AS DETAILED. REFER TO ALTERNATE #7 FOR COMPLETE CURB REPLACEMENT.
17. EXISTING TELECOM CARRIER PLATFORM. G.C. TO COORDINATE ACCESS TO ROOF BELOW & AROUND OUTSIDE PERIMETER OF ALL PLATFORMS.
18. EXISTING TELECOM PLATFORM ACCESS STAIR &/OR LADDER. G.C. TO COORDINATE REINSTALLATION FOLLOWING ROOF REPLACEMENT.
19. EXISTING TELECOM CARRIER ROOF MOUNTED EQUIPMENT TO BE PERMANENTLY RELOCATED OFF OF OWNER'S ROOF MEMBRANE. G.C. TO COORDINATE.
20. REINSTALL EXISTING ATRIUM ROOF SHIP'S LADDER ACCESS FOLLOWING ROOF REPLACEMENT. G.C. TO MAKE ANY NECESSARY MODIFICATIONS DUE TO ROOF REPLACMENT AS REQUIRED. PREP ALL RAILS & STRINGER & PROVIDE NEW "YELLOW" PAINTED FINISH APPLICATION TO ALL AREAS PREVIOUSLY PAINTED "YELLOW".
21. EXISTING ROOF MOUNTED LIGHTING & ANY RELATED CONDUIT TO BE CAREFULLY REMOVED & STORED DURING ROOF INSTALL. LIGHTING TO BE REINSTALLED AS DIRECTED.
22. INFILL ABANDONED ROOF HATCH OPENING. PROVIDE NEW SHOP PRIMED STEEL PERIMETER ANGLE, METAL PAN DECK & CONCRETE FINISH FOR FLUSH TRANSITION WITH EXISTING CONCRETE SURFACE.
23. INFILL ABANDONED ROOF CURB ROOF OPENING. PROVIDE NEW SHOP PRIMED STEEL PERIMETER ANGLE, METAL PAN DECK & CONCRETE FINISH FOR FLUSH TRANSITION WITH EXISTING CONCRETE SURFACE.
24. EXISTING ROOF MOUNTED ANTENNA. COORDINATE REUSE OR REMOVAL WITH OWNER.
25. EXISTING PUBLIC SERVICE ANTENNA TO REMAIN.
26. EXISTING ELEVATOR EXHAUST VENT. RECONFIGURE CURB AS REQUIRED FOR ROOF REPLACEMENT USING ROOF MANUFACTURE RECOMMENDED CURB DETAIL.
27. EXISTING CONCRETE BEAM TO REMAIN. REFER TO DETAIL 3/A500.
28. BASE BID: PROVIDE NEW DIRECT ADHERED EPDM MEMBRANE OVER NEW COVER BOARD OVER NEW SLOPED INSULATION OVER VAPOR BARRIER. REFER TO DETAIL 9/A500.
29. RELOCATE TELECOM CARRIER STAIR ACCESS TO LOCATION SHOWN & MODIFY LANDING & RELATED PROTECTION RAIL.
30. EXISTING ROOF ACCESS LADDER TO REMAIN.
31. EXISTING ROOF SLOPE TO REMAIN UNDER BASE BID.
32. MATCH EXISTING ROOF SLOPE UNDER ALTERNATE #2 & ALTERNATE #3 ESTIMATED AT APPROXIMATELY 1/8" PER FOOT.
33. PROVIDE NEW ROOF SLOPE OF 1/4" PER FOOT UNDER ALTERNATE #3.
34. LOCATION OF ROOF SLOPE CHANGE UNDER ALTERNATE #3.
35. PROVIDE/INSTALL NEW ROOF PAVERS (OVER ADDITIONAL SACRIFICIAL MEMBRANE LAYER AS RECOMMENDED BY ROOF MEMBRANE MANUFACTURER) TO CONFIGURATION SHOWN UNDER ALTERNATE #6. G.C. TO COORDINATE FINAL PLACEMENT W/ ANY CLEARANCE REQUIREMENTS INDICATED BY TELECOM CARRIERS. COORDINATE CHANGES TO PLAN WITH OWNER/ARCHITECT PRIOR TO WORK PERFORMED.
36. PROVIDE/INSTALL NEW ROOF ANCHORS UNDER ALTERNATE #1. REFER TO ROOF ANCHOR PLAN ON SHEET RA-100 FOR LAYOUT & ADDITIONAL INFORMATION.
37. G.C. TO ADHERE TO & INSTALL PERMANENT NOTICE/CAUTION SIGNAGE AT OWNER APPROVED ROOF ACCESS LOCATION & AT LOCATIONS RECOMMENDED BY TELECOM CARRIERS & APPROVED BY OWNER. PROVIDE SIGNAGE INDICATING NOTICES &/OR CAUTION GUIDELINES FOR WORKING IN RADIOFREQUENCY ENVIRONMENTS. SIGNAGE SHALL INCLUDE LANGUAGE RECOMMENDED BY TELECOM CARRIERS. FOR PURPOSES OF BIDDING, ASSUME PLACEMENT OF (5) SIGNS. TO BE PROVIDED BY TELECOM CARRIERS.
38. PROVIDE ROOFING MANUFACTURER APPROVED EXPANSION JOINT AT TRANSITION FROM BRIDGE ROOF TO ADJACENT WALL. REFER TO DETAIL 10/A500.
39. AT ROOF DRAINS, PROVIDE SUMP & EXTEND TO BUILDING CORNER. PROVIDE TAPERED INSULATION & POSITIVE DRAINAGE TO SUMP FROM ADJACENT ROOF AREAS. COORDINATE CONDITIONS & REQUIREMENTS IN FIELD PRIOR TO CONSTRUCTION.

finn daniels ARCHITECTS
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CONSULTANT:

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Architect in the State of Minnesota.

DANIEL M. DEGE
Typed Name

24872 License Number
04.22.2021 Date

PROJECT:

SOUTH ST. PAUL HRA

JOHN CARROLL APARTMENTS
ROOF REPLACEMENT PROJECT

300 GRAND AVE. WEST
SOUTH ST. PAUL, MN 55075

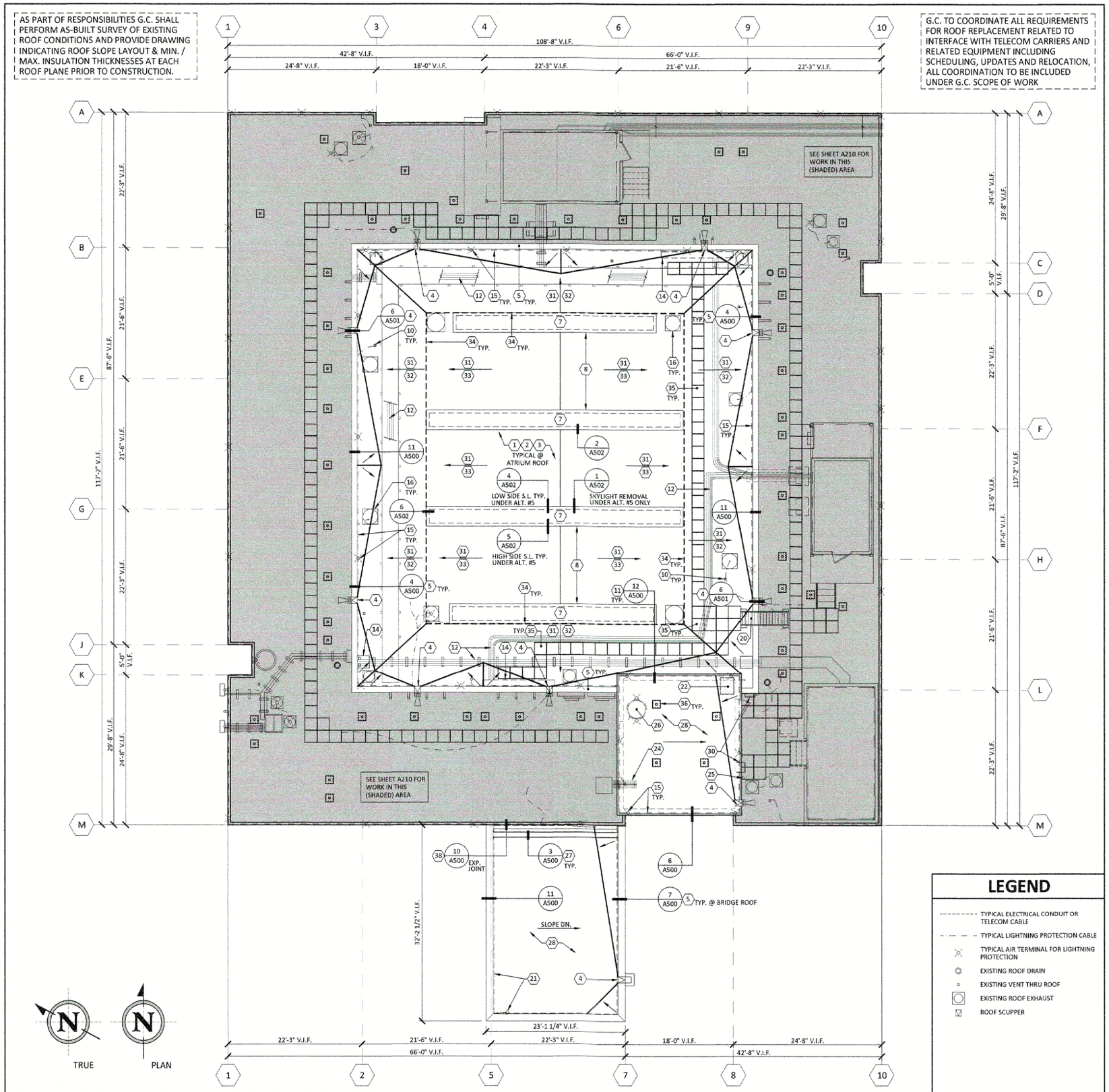
PROJECT NO.: 21002
DRAWN BY: ALM
CHECKED BY: DRM
ISSUES AND REVISIONS:
BID SET 04.22.2021

SHEET TITLE:
ROOF PLAN - MAIN PERIMETER

A210

AS PART OF RESPONSIBILITIES G.C. SHALL PERFORM AS-BUILT SURVEY OF EXISTING ROOF CONDITIONS AND PROVIDE DRAWING INDICATING ROOF SLOPE LAYOUT & MIN. / MAX. INSULATION THICKNESSES AT EACH ROOF PLANE PRIOR TO CONSTRUCTION.

G.C. TO COORDINATE ALL REQUIREMENTS FOR ROOF REPLACEMENT RELATED TO INTERFACE WITH TELECOM CARRIERS AND RELATED EQUIPMENT INCLUDING SCHEDULING, UPDATES AND RELOCATION, ALL COORDINATION TO BE INCLUDED UNDER G.C. SCOPE OF WORK



1 A211 ROOF PLAN - ATRIUM, BRIDGE & ELEVATOR
1/8"=1'-0"

LEGEND

- TYPICAL ELECTRICAL CONDUIT OR TELECOM CABLE
- TYPICAL LIGHTNING PROTECTION CABLE
- TYPICAL AIR TERMINAL FOR LIGHTNING PROTECTION
- EXISTING ROOF DRAIN
- EXISTING VENT THRU ROOF
- EXISTING ROOF EXHAUST
- ROOF SCUPPER

ROOF PLAN - GENERAL NOTES

1. NOT ALL DETAILS, CONDITIONS, & CIRCUMSTANCES ARE INDICATED IN THESE DRAWINGS & DETAILS. CONTRACTOR TO INCLUDE IN BID ALL ITEMS NECESSARY FOR A FULL & COMPLETE RE-ROOFING PROJECT WHETHER SPECIFICALLY INDICATED IN DRAWINGS & DETAILS OR NOT.
2. ROOFING SYSTEM & MANUFACTURER WARRANTY COMPLIANCE ITEMS TAKE PRECEDENCE OVER ALL OTHER CRITERIA. INCLUDE ALL SUCH ITEMS, MATERIALS, MEANS, & METHODS NECESSARY TO COMPLY WITH MANUFACTURER'S SPECIFICATIONS & RECOMMENDATIONS FOR ROOFING SYSTEM & WARRANTY REQ'D.
3. ROOFING CONTRACTOR SHALL INCLUDE IN BID & COORD. MANUFACTURER'S REPRESENTATIVE ATTENDANCE AT A MINIMUM OF 3 SITE MEETINGS INCLUDING AT THE BEGINNING, MID-POINT, & UPON COMPLETION OF PROJECT.
4. ROOF PENETRATIONS INDICATED ON THIS PLAN WERE OBTAINED BY ARCHITECT'S ROOF SURVEY UNDER LESS THAN OPTIMAL CONDITIONS, AS WELL AS ORIGINAL BUILDING PLANS. CONTRACTORS SHALL FIELD VERIFY EXISTING CONDITIONS ANTICIPATING SOME DIFFERENCES FROM WHAT IS SHOWN ON THIS PLAN & ACCOUNT FOR SUCH IN BID. ADDITIONALLY, LOCATIONS OF ROOF PENETRATIONS ARE APPROXIMATE.
5. DIMENSIONS INDICATED ON THIS PLAN ARE APPROXIMATE & ARE GIVEN FOR CONTRACTOR'S CONVENIENCE. THEY SHALL BE CONFIRMED BY ALL BIDDING CONTRACTOR'S.
6. SEE INFO AVAILABLE TO BIDDERS FOR EXISTING ROOFING CORE INFORMATION.
7. PROVIDE CRICKETS ON HIGH SIDE OF ALL ROOF CURB CONDITIONS.

ROOF PLAN - KEY NOTES

1. UNDER BASE BID: PROVIDE/INSTALL NEW LOOSE LAID EPDM ROOF OVER NEW COVER BOARD OVER EXISTING SLOPED INSULATION BOARDS. APPLY STONE BALLAST FROM EXISTING INVENTORY REMOVED DURING ROOF DEMOLITION. REFER TO DETAIL 5/A500.
2. UNDER ALTERNATE #2 & ALTERNATE #3: PROVIDE/INSTALL NEW DIRECT ADHERED EPDM MEMBRANE OVER NEW COVER BOARD OVER NEW SLOPED INSUL. OVER VAPOR BARRIER. REFER TO PROJECT MANUAL & DETAIL 9/A500.
3. UNDER BASE BID: MAINTAIN EXISTING ROOF SLOPES IF INSULATION IS PRIMARILY UNDAMAGED BY WATER. ANY AREAS REQUIRED TO BE PATCHED DUE TO WATER DAMAGE, CONSTRUCTION MEANS & METHODS OF OTHER TRADES OR AS MAY BE REQUIRED BY ROOFING INSTALLATION SHALL BE PATCHED WITH "LIKE MATERIAL" INSULATION IN SAME DEPTHS STAGGERING JOINTS 6" MINIMUM WITH EACH ABOVE & BELOW. CONTRACTOR TO ASSUME REPLACEMENT OF 640 S.F. OF INSULATION & EXISTING COVER BOARD AT AN AVERAGE DEPTH OF 6" AS PART OF BASE BID.
4. PROVIDE/INSTALL NEW FLASHINGS, ROOF SCUPPER, DOWNSPOUT & SPLASHBLOCK TO REPLACE REMOVED EXISTING COMPONENTS. DESIGN CONFIGURATION, SIZES & COMPONENTS TO MATCH EXISTING. MAKE NECESSARY ADJUSTMENTS FOR NEW ROOF INSTALLATION. REFER TO DETAIL 6/A501 FOR SCUPPER CONDITION AT ATRIUM ROOF.
5. PROVIDE/INSTALL NEW PERIMETER PARAPET FLASHING & BLKG. REFER TO DETAIL 4/A500 AT ATRIUM & 7/A500 AT BRIDGE.
6. PROVIDE/INSTALL NEW PERIMETER PARAPET FLASHING. REPLACE BLKG. BELOW AS REQ'D. FOR NEW DETL. &/OR WHERE DETERIORATED. REFER TO DETAIL 2/A500 (BASE BID) & 6/A500 (ALT. #2, & ELEV. BASE BID).
7. EXISTING SKYLIGHTS TO REMAIN UNDER BASE BID. PROVIDE/INSTALL NEW SKYLIGHTS UNDER ALTERNATE #5. REFER TO PROJECT MANUAL & BALANCE OF DRAWINGS.
8. MODIFY SKYLIGHT ROOF CURB AS REQUIRED FOR ALTERNATE #5. REFER TO PROJECT MANUAL & SKYLIGHT DETAILS FOR ALTERNATE #5.
9. PROVIDE/INSTALL NEW COMPATIBLE ROOF DRAIN DOMES & CLAMPING RINGS. REFER TO DETAIL 4/A501.
10. EXISTING VENT THRU ROOF (VTR) TO REMAIN. PROVIDE/INSTALL NEW APPROPRIATE SIZED BOOT TO WORK WITH NEW ROOF SYSTEM AS SPECIFIED. REFER TO DETAIL 3/A501.
11. PROVIDE/INSTALL NEW PERIMETER REGLET FLASHING. REFER TO DETAIL 12/A500 (MAIN/ATRIUM).
12. EXISTING TELECOM BUSWAYS, CABLE & CONDUIT. PROVIDE/INSTALL NEW ROOF PROTECTION BLOCKS UNDER ALL UTILITY RUNS PLACED OVER NEW ROOF MEMBRANES COMPLYING WITH ROOF MEMBRANE MANUFACTURER CRITERIA. BLOCKS TO BE CONTINUOUS & PLACED UNDER FULL WIDTH OF UTILITY RUNS.
13. EXISTING CABLE PROTECTION BRIDGE.
14. EXISTING TELECOM CARRIER EQUIPMENT.
15. REINSTALL EXISTING LIGHTNING PROTECTION SYSTEM COMPONENTS & FASTENERS TO ALLOW FOR ROOF REPLACEMENT WORK. REPLACE ALL MISSING OR MALFUNCTIONING COMPONENTS REQUIRED FOR REINSTALLATION. REVIEW EXISTING CONDITIONS PRIOR TO BID. REFER TO DETAIL 5/A501.
16. EXISTING EXHAUST VENT. RECONFIGURE CURB AS REQUIRED FOR ROOF REPLACEMENT. REFER TO DETAIL 1 & 2/A501. RETAIN EXISTING CURB BLOCKING UNDER BASE BID & WRAP NEW MEMBRANE WITH FLASHING AS DETAILED. REFER TO ALTERNATE #7 FOR COMPLETE CURB REPLACEMENT.
17. EXISTING TELECOM CARRIER PLATFORM. G.C. TO COORDINATE ACCESS TO ROOF BELOW & AROUND OUTSIDE PERIMETER OF ALL PLATFORMS.
18. EXISTING TELECOM PLATFORM ACCESS STAIR &/OR LADDER. G.C. TO COORDINATE REINSTALLATION FOLLOWING ROOF REPLACEMENT.
19. EXISTING TELECOM CARRIER ROOF MOUNTED EQUIPMENT TO BE PERMANENTLY RELOCATED OFF OF OWNER'S ROOF MEMBRANE. G.C. TO COORDINATE.
20. REINSTALL EXISTING ATRIUM ROOF SHIP'S LADDER ACCESS FOLLOWING ROOF REPLACEMENT. G.C. TO MAKE ANY NECESSARY MODIFICATIONS DUE TO ROOF REPLACMENT AS REQUIRED. PREP ALL RAILS & STRINGER & PROVIDE NEW "YELLOW" PAINTED FINISH APPLICATION TO ALL AREAS PREVIOUSLY PAINTED "YELLOW".
21. EXISTING ROOF MOUNTED LIGHTING & ANY RELATED CONDUIT TO BE CAREFULLY REMOVED & STORED DURING ROOF INSTALL. LIGHTING TO BE REINSTALLED AS DIRECTED.
22. INFILL ABANDONED ROOF HATCH OPENING. PROVIDE NEW SHOP PRIMED STEEL PERIMETER ANGLE, METAL PAN DECK & CONCRETE FINISH FOR FLUSH TRANSITION WITH EXISTING CONCRETE SURFACE.
23. INFILL ABANDONED ROOF CURB ROOF OPENING. PROVIDE NEW SHOP PRIMED STEEL PERIMETER ANGLE, METAL PAN DECK & CONCRETE FINISH FOR FLUSH TRANSITION WITH EXISTING CONCRETE SURFACE.
24. EXISTING ROOF MOUNTED ANTENNA. COORDINATE REUSE OR REMOVAL WITH OWNER.
25. EXISTING PUBLIC SERVICE ANTENNA TO REMAIN.
26. EXISTING ELEVATOR EXHAUST VENT. RECONFIGURE CURB AS REQUIRED FOR ROOF REPLACEMENT USING ROOF MANUFACTURE RECOMMENDED CURB DETAIL.
27. EXISTING CONCRETE BEAM TO REMAIN. REFER TO DETAIL 3/A500.
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CONSULTANT:

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly licensed Architect in the State of Minnesota.

DANIEL M. DEGE
Typed Name

24872 License Number
04.22.2021 Date

PROJECT:

SOUTH ST. PAUL HRA

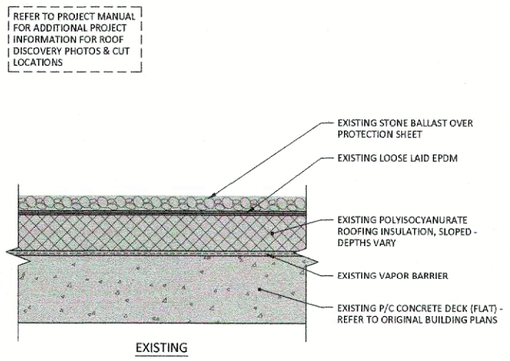
JOHN CARROLL APARTMENTS ROOF REPLACEMENT PROJECT

300 GRAND AVE. WEST
SOUTH ST. PAUL, MN 55075

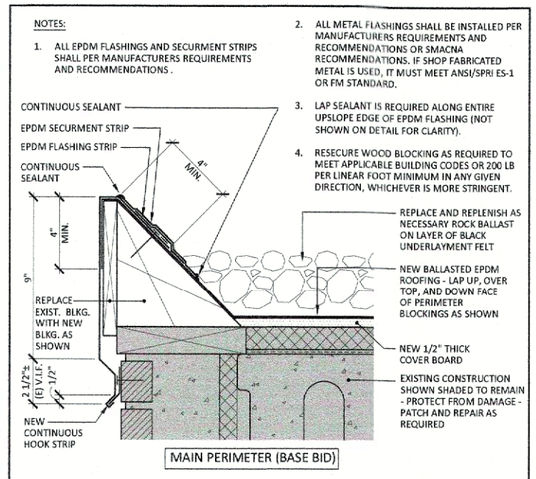
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DRAWN BY: ALM
CHECKED BY: DRM
ISSUES AND REVISIONS:
BID SET 04.22.2021

SHEET TITLE:
ROOF PLAN - ATRIUM, BRIDGE & ELEVATOR

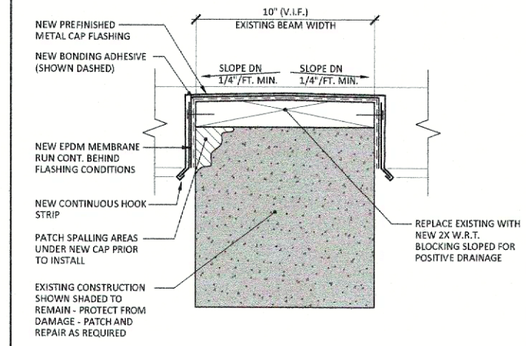
A211



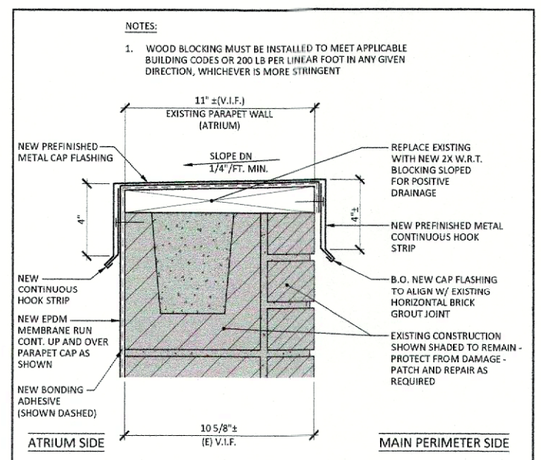
1 A500 EXISTING ROOF SECTION
3"=1'-0"



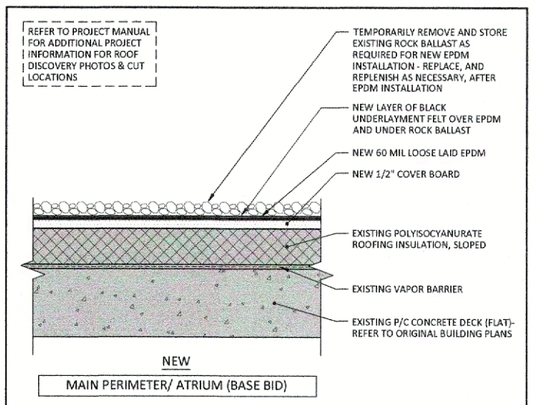
2 A500 PERIMETER MAIN/ELEV. ROOF DETAIL
3"=1'-0"



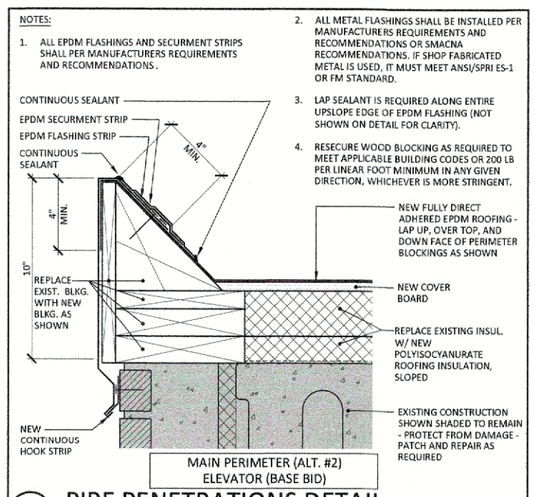
3 A500 BEAM COVER DETAIL (BRIDGE)
3"=1'-0"



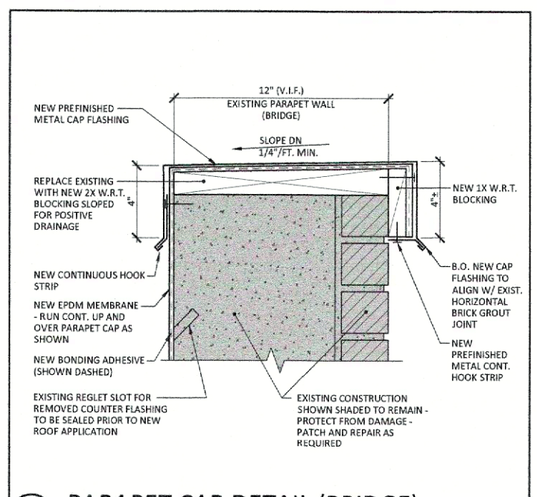
4 A500 PARAPET CAP DETAIL (ATRIUM)
3"=1'-0"



5 A500 NEW ROOF SECTION - (BASE BID)
3"=1'-0"



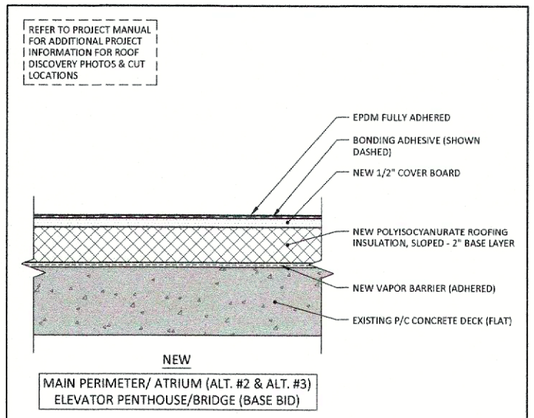
6 A500 PIPE PENETRATIONS DETAIL
3"=1'-0"



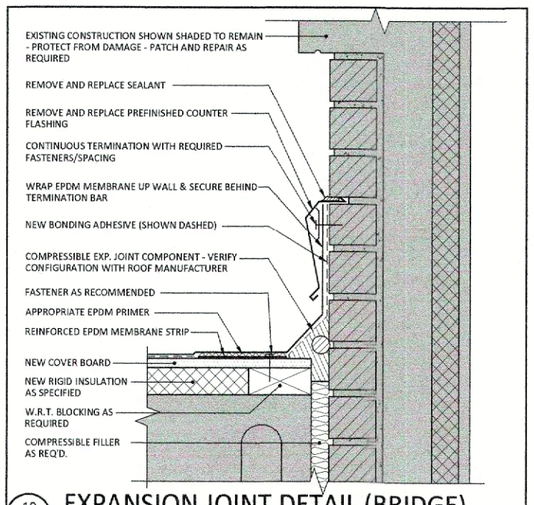
7 A500 PARAPET CAP DETAIL (BRIDGE)
3"=1'-0"

GENERAL NOTES

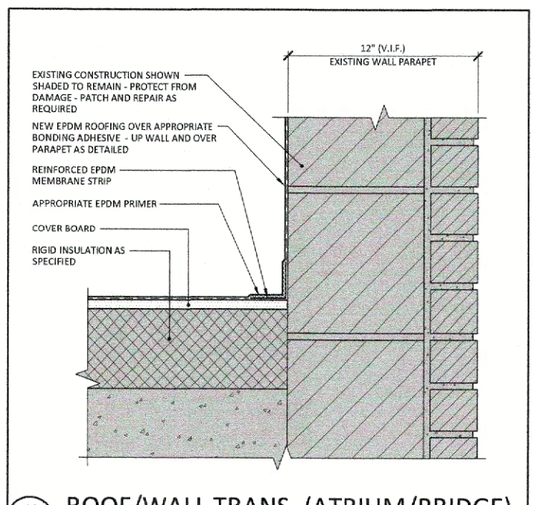
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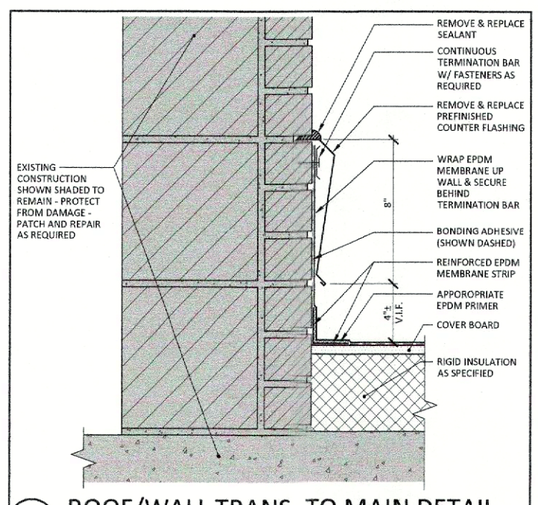
9 A500 NEW ROOF SECTION - (ALTERNATES)
3"=1'-0"



10 A500 EXPANSION JOINT DETAIL (BRIDGE)
3"=1'-0"



11 A500 ROOF/WALL TRANS. (ATRIUM/BRIDGE)
3"=1'-0"



12 A500 ROOF/WALL TRANS. TO MAIN DETAIL
3"=1'-0"

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CONSULTANT:

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Architect in the State of Minnesota.

DANIEL M. DEGE
Typed Name

24872 — License Number
04.22.2021 — Date

PROJECT:

SOUTH ST. PAUL HRA

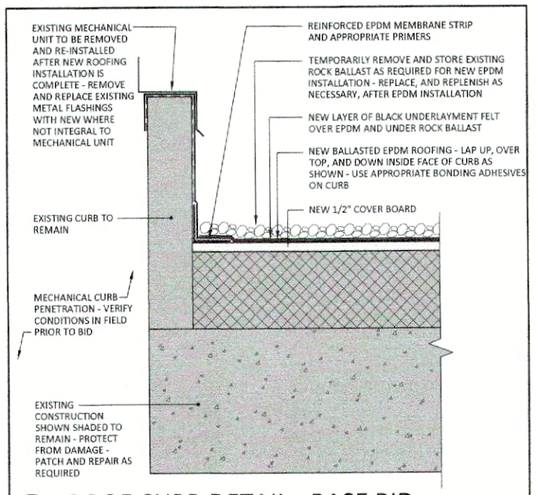
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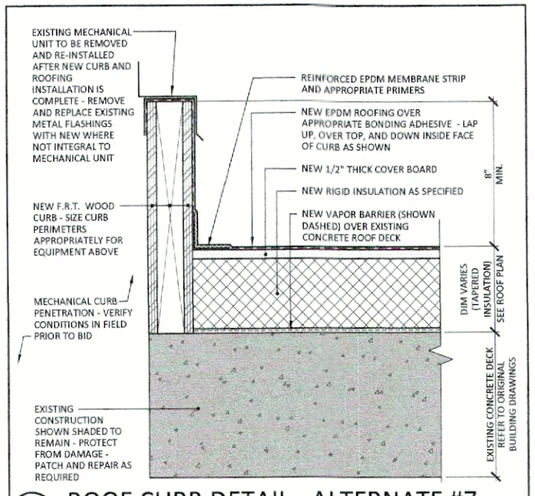
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SHEET TITLE:
CONSTRUCTION DETAILS

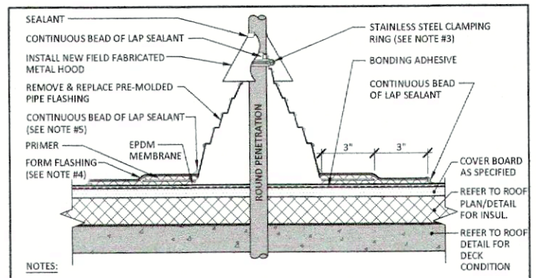
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1 A501 ROOF CURB DETAIL - BASE BID
3"=1'-0"



2 A501 ROOF CURB DETAIL - ALTERNATE #7
3"=1'-0"



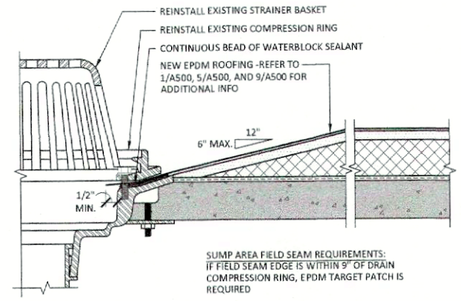
NOTES:

1. PRIOR TO INSTALLING NEW PIPE SEAL, REMOVE ALL EXISTING FLASHINGS, LEADS, ETC. PIPE SURFACE MUST BE FREE OF ALL RUST, GREASE, INSULATION, ETC.
2. DO NOT USE WHEN SERVICE LINE TEMP. EXCEEDS 180°F.
3. PRE-MOLDED PIPE FLASHING MAY BE CUT TO HEIGHT, BUT NO LOWER THAN REINFORCING RING (NO WRINKLES OR FOLDS UNDER CLAMPING RING). PREMOLDED PIPE FLASHING MUST HAVE INTACT RIB AT TOP EDGE REGARDLESS OF PIPE DIAMETER.
4. FORM FLASHING EXTENDING 1/4" FROM PIPE FLASHING WALL TO 3" BEYOND PIPE FLASHING.
5. APPLY LAP SEALANT BETWEEN PENETRATION AND PRE-MOLDED PIPE FLASHING PRIOR TO INSTALLATION OF CLAMPING RING.
6. 1'-6" PENETRATION SIZES.
7. PIPE MUST BE ANCHORED TO ENSURE STABILITY.
8. FOLLOW MANUFACTURE REQUIREMENTS FOR CONDITIONS IN WHICH FIELD SPLICE INTERSECTS A PIPE SEAL.
9. DECK FLANGES OF PRE-MOLDED PIPE SEAL SHALL NOT BE OVERLAPPED, CUT OR APPLIED TO ANY ANGLE CHANGE.
10. REFER TO ROOF MEMBRANE MANUFACTURER'S REQUIREMENTS. FOLLOW ALL REQUIREMENTS.

3 A501 PIPE PENETRATION DETAIL
N.T.S.

NOTES:

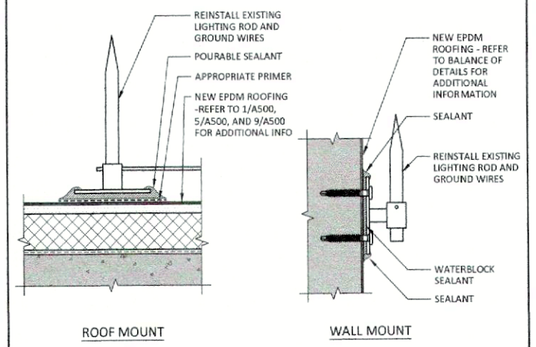
1. HOLE IN MEMBRANE SHOULD EXTEND A MINIMUM OF 1/2" BEYOND CLAMPING RING AND SHOULD BE LARGER THAN DIAMETER OF THE LEADER PIPE.
2. INSULATION ADJACENT TO DRAIN TO BE APPROPRIATE INSULATION WITH APPROPRIATE BONDING SURFACE.
3. WATERBLOCK MIN. OF 1/2 OF 10 OZ TUBE PER 4" DRAIN. USE ADDITIONAL WATERBLOCK FOR LARGER DRAINS.
4. REMOVE EXISTING FLASHINGS DOWN TO METAL BOWL. REPAIR OR REPLACE BROKEN DRAIN COMPONENTS. DRIP AND TAP BROKEN DRAIN BOLTS AND REPLACE IF NECESSARY.



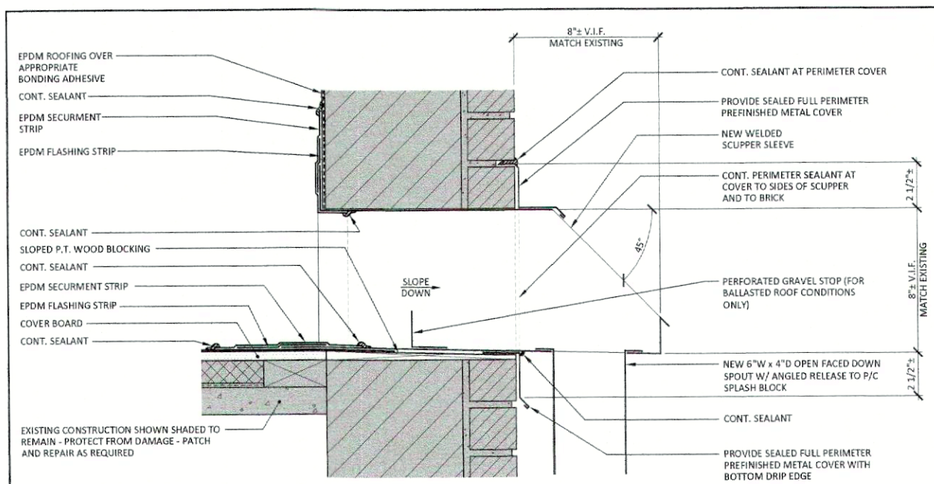
4 A501 ROOF DRAIN DETAIL
N.T.S.

NOTES:

1. GROUND WIRE SUPPORTS SHALL BE INSTALLED IN A SIMILAR MANNER TO LIGHTING RODS.
2. A SUFFICIENT NUMBER OF GROUND WIRE SUPPORTS MUST BE INSTALLED TO ASSURE THAT THE GROUND WIRE DOES NOT COME IN CONTACT WITH FIELD OR FLASHING MEMBRANE.
3. IF THE GROUND WIRE COMES IN CONTACT WITH THE FIELD OF FLASHING MEMBRANE THEN ADDITIONAL EPDM FLASHINGS WILL NEED TO BE INSTALLED UNDER THE GROUND WIRE TO PREVENT CONTACT WITH THE MEMBRANE.



5 A501 LIGHTING ROD DETAIL
N.T.S.



NOTES:

1. SCUPPER MUST BE WELDED METAL SLEEVE. ROUND ALL SHEET METAL FLANGE CORNERS.
2. APPLY LAP SEALANT AROUND ENTIRE PERIMETER OF FLASHINGS.
3. FLANGE OF METAL MUST BE FULLY SUPPORTED BY WOOD AND TERMINATED AT LEAST 1/2" FROM EDGE OF WOOD.

6 A501 ATRIUM SCUPPER DETAIL
3"=1'-0"

GENERAL NOTES

1. NOT ALL DETAILS, CONDITIONS, AND CIRCUMSTANCES ARE INDICATED IN THESE DRAWINGS AND DETAILS. CONTRACTOR TO INCLUDE IN BID ALL ITEMS NECESSARY FOR A FULL AND COMPLETE RE-ROOFING PROJECT WHETHER SPECIFICALLY INDICATED IN DRAWINGS AND DETAILS OR NOT.
2. ROOFING SYSTEM AND MANUFACTURER WARRANTY COMPLIANCE ITEMS TAKE PRECEDENCE OVER ALL OTHER CRITERIA. INCLUDE ALL SUCH ITEMS, MATERIALS, MEANS, AND METHODS NECESSARY TO COMPLY WITH MANUFACTURER'S SPECIFICATIONS AND RECOMMENDATIONS FOR ROOFING SYSTEM AND WARRANTY REQUIRED.
3. ROOFING CONTRACTOR SHALL INCLUDE IN BID AND COORDINATE MANUFACTURER'S REPRESENTATIVE ATTENDANCE AT A MINIMUM OF 3 SITE MEETINGS INCLUDING AT THE BEGINNING, MID-POINT, AND UPON COMPLETION OF PROJECT.
4. DIMENSIONS INDICATED ON THIS PLAN ARE APPROXIMATE AND ARE GIVEN FOR CONTRACTOR'S CONVENIENCE. THEY SHALL BE CONFIRMED BY ALL BIDDING CONTRACTORS.
5. SEE INFO AVAILABLE TO BIDDERS FOR EXISTING ROOFING CORE INFORMATION.
6. PROVIDE CRICKETS ON HIGH SIDE OF ALL ROOF CURB CONDITIONS.

9 A501 NOT USED

10 A501 NOT USED

11 A501 NOT USED

12 A501 NOT USED

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651.690.5525
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CONSULTANT:

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Architect in the State of Minnesota.

DANIEL M. DEGE
Typed Name

24872 License Number
04.22.2021 Date

PROJECT:

SOUTH ST. PAUL HRA

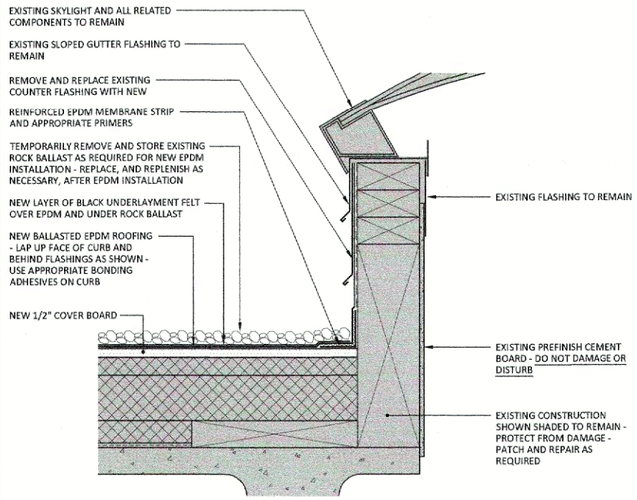
JOHN CARROLL APARTMENTS
ROOF REPLACEMENT PROJECT

300 GRAND AVE. WEST
SOUTH ST. PAUL, MN 55075

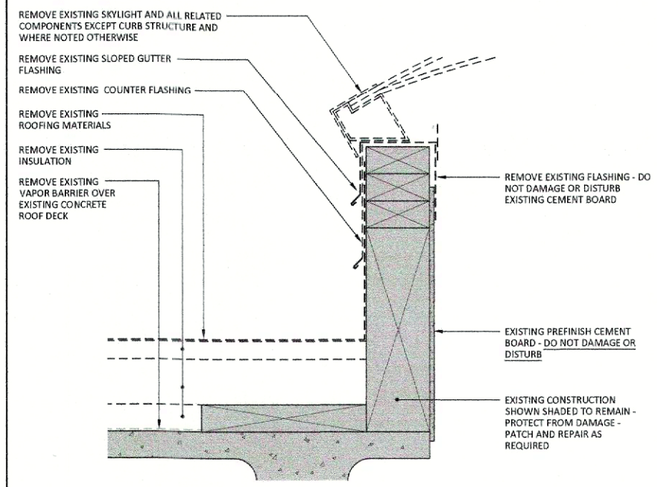
PROJECT NO.: 21002
DRAWN BY: ALM
CHECKED BY: DRM
ISSUES AND REVISIONS:
BID SET 04.22.2021

SHEET TITLE:
CONSTRUCTION DETAILS

A501



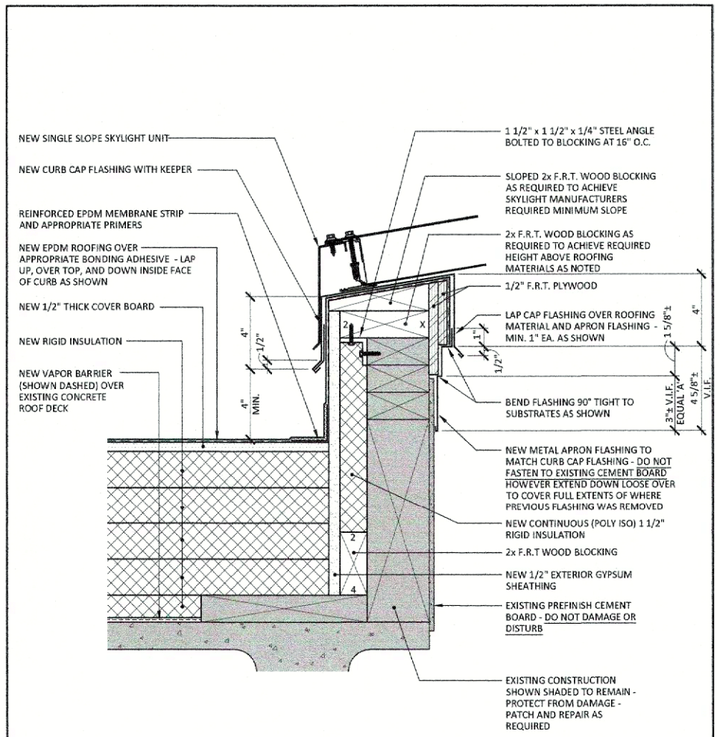
1 A502 EXISTING SKYLIGHT DETAIL - BASE BID
3"=1'-0"



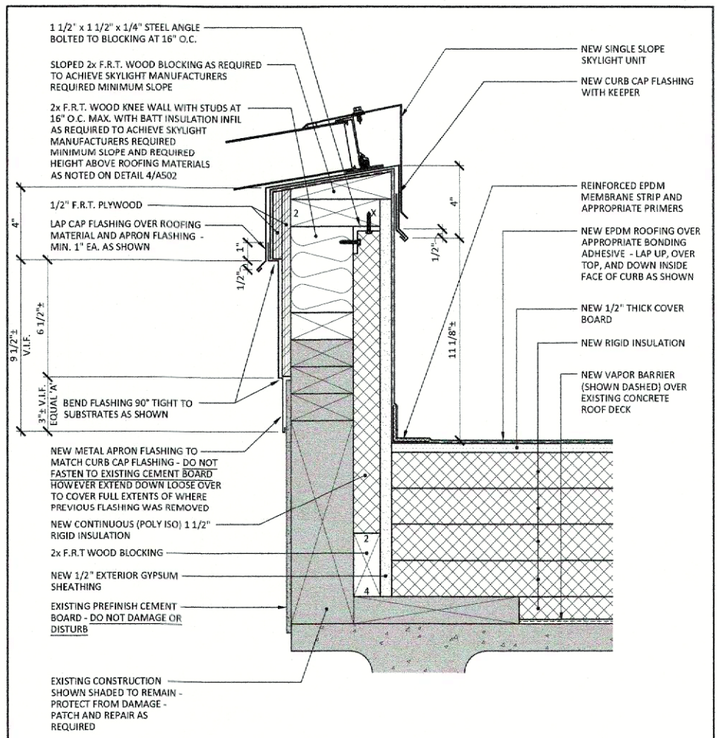
2 A502 DEMO SKYLIGHT DETAIL - ALTERNATE #5
3"=1'-0"

GENERAL NOTES

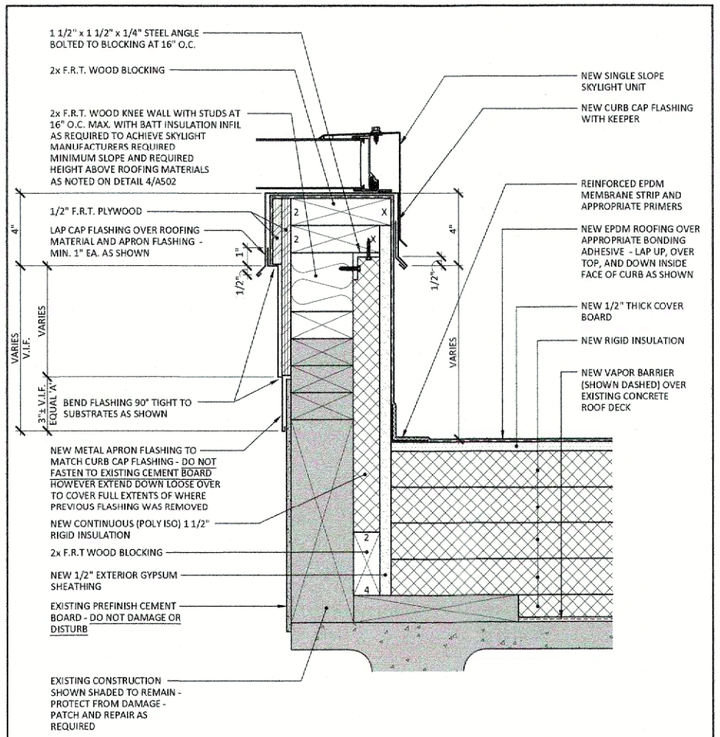
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3. ROOFING CONTRACTOR SHALL INCLUDE IN BID AND COORDINATE MANUFACTURER'S REPRESENTATIVE ATTENDANCE AT A MINIMUM OF 3 SITE MEETINGS INCLUDING AT THE BEGINNING, MID-POINT, AND UPON COMPLETION OF PROJECT.
4. DIMENSIONS INDICATED ON THIS PLAN ARE APPROXIMATE AND ARE GIVEN FOR CONTRACTOR'S CONVENIENCE. THEY SHALL BE CONFIRMED BY ALL BIDDING CONTRACTORS.
5. SEE INFO AVAILABLE TO BIDDERS FOR EXISTING ROOFING CORE INFORMATION.
6. PROVIDE CRICKETS ON HIGH SIDE OF ALL ROOF CURB CONDITIONS.



4 A502 NEW SKYLIGHT (LOW SIDE) DETAIL - ALTERNATE #5
3"=1'-0"



5 A502 NEW SKYLIGHT (HIGH SIDE) DETAIL - ALTERNATE #5
3"=1'-0"



6 A502 NEW SKYLIGHT (SLOPING SIDE) DETAIL - ALTERNATE #5
3"=1'-0"

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DANIEL M. DEGE
Typed Name

24872 License Number
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PROJECT:

SOUTH ST. PAUL HRA

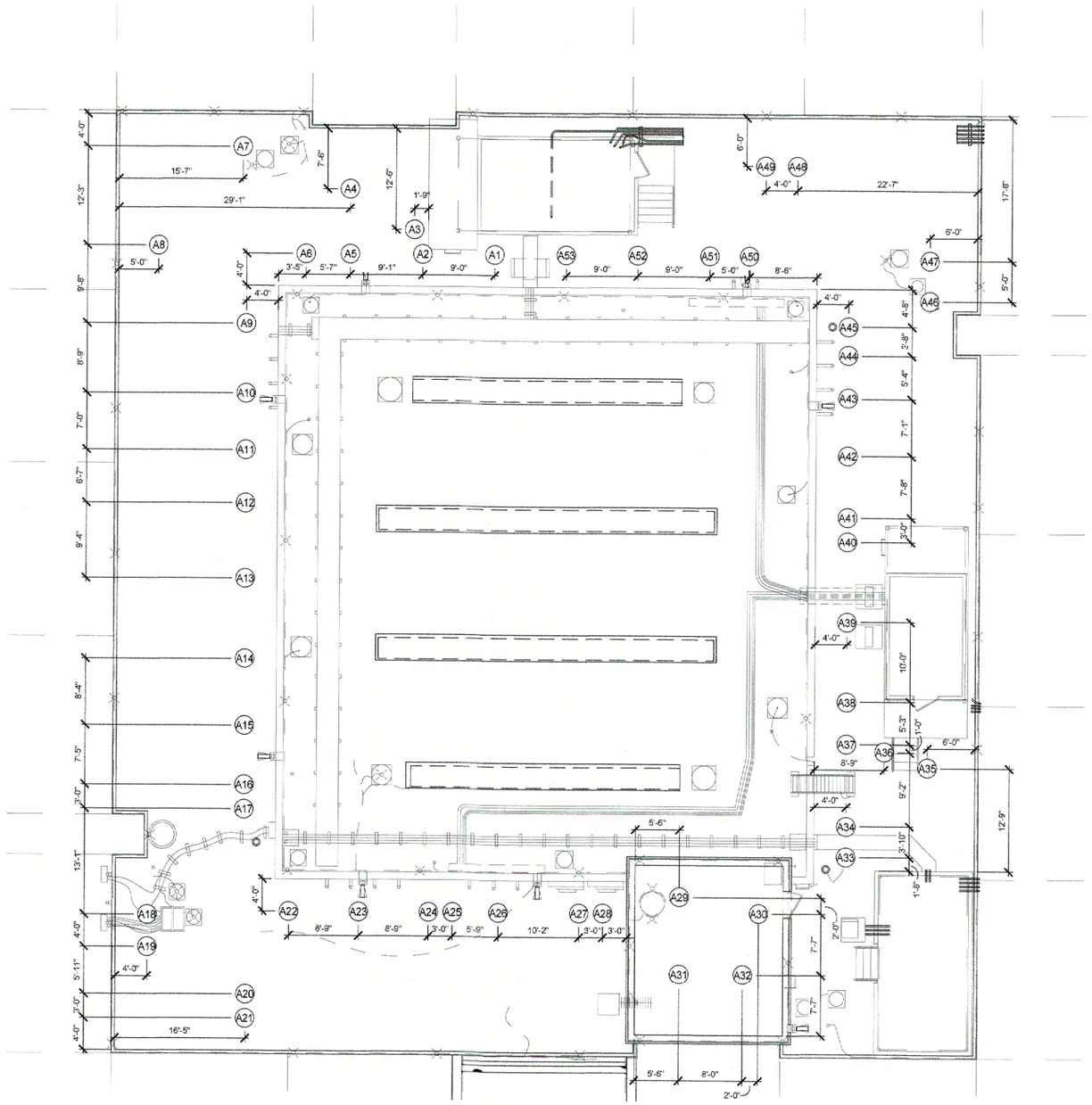
JOHN CARROLL APARTMENTS ROOF REPLACEMENT PROJECT

300 GRAND AVE. WEST
SOUTH ST. PAUL, MN 55075

PROJECT NO.: 21002
DRAWN BY: ALM
CHECKED BY: DRM
ISSUES AND REVISIONS:
BID SET 04.22.2021

SHEET TITLE:
CONSTRUCTION DETAILS

A502



1 RA-100 ROOF ANCHOR PLAN
SCALE: 1/8" = 1'-0"

GENERAL

1. ELECTROMAGNETIC EMITTING EQUIPMENT IS PRESENT ON ROOF. CONTRACTOR IS REQUIRED TO COORDINATE WITH OWNER AND OWNER'S UTILITY PROVIDERS TO SAFELY WORK IN VICINITY OF EQUIPMENT IN A MANNER COMPLIANT WITH ALL APPLICABLE SAFETY STANDARDS.

FALL ARREST ANCHORS

1. FALL ARREST ASSEMBLY - 18" ROOF MOUNTED PIPE ANCHORS. ALL ANCHORS AND COMPONENTS TO BE HOT DIP GALVANIZED UNLESS NOTED OTHERWISE.
   a. CONTRACTOR TO SUPPLY & INSTALL FALL ARREST ASSEMBLY AT ALL LOCATIONS SHOWN.
   b. CONTRACTOR TO SUPPLY ALL ATTACHMENTS AS SPECIFIED.
   c. ANCHORAGE ASSEMBLY SHALL BE DESIGNED AND ATTACHED TO SUPPORT THE FOLLOWING LOADING:
      - 5,000 LBS ULTIMATE
      - 1,800 LBS IMPACT
      - 2,000 LBS TEST LOAD
      - 1,250 LBS WORKING LOAD
      - 3,125 LBS SERVICE LIVE LOAD APPLIED TO THE HOOP AT THE TOP OF THE ANCHOR IN ANY DIRECTION.
   d. ANCHORAGES SHALL BE DESIGNED AND INSTALLED IN ACCORDANCE WITH IWCA I-14.1 & 2020 MN STATE BUILDING CODE REQUIREMENTS.
   e. CONTRACTOR TO SUBMIT CALCULATIONS AND SHOP DRAWINGS. ROOF CONNECTION DETAIL 1/RA-200 IS BASIS OF DESIGN. FINAL DESIGN IS BY ANCHOR SUPPLIER.

FIELD TESTING

1. CONTRACTOR TO ENGAGE TESTING AGENCY TO PERFORM THE FOLLOWING LOAD TESTING UPON INSTALLATION. INCLUDE IN CONTRACTOR'S BID FOR ROOF ANCHOR INSTALLATION.
   a. DIRECT PULL TEST OF ALL FALL ARREST ANCHOR ASSEMBLIES. PULL TEST ANCHOR TO A LOAD OF 2,500#
   b. CONTRACTOR TO COORDINATE ACCESS & FACILITATE TESTING W/ TESTING AGENCY.
   c. TORQUE TESTING OF 100% OF ANCHORS TO THE MANUFACTURER'S SUGGESTED TORQUE VALUES.
   d. ALL ANCHORS REPORTING DEFICIENT RESULTS SHALL BE REPORTED TO THE ENGINEER FOR FURTHER REVIEW AND/OR REPLACEMENT.
2. CONTRACTOR SHALL PREPARE A TESTING LOG BOOK, SYSTEM CERTIFICATION, AS-BUILT DRAWING, INSPECTION LOG, AND RE-CERTIFICATION LOG. INCLUDE COSTS IN CONTRACTOR'S BID FOR ROOF ANCHOR INSTALLATION.

DESIGN CODES

1. 2001 ANSI/IWCA I14.1.
2. MN OSHA 5205.0650 TO 5205.0730.
3. MINNESOTA STATE BUILDING CODE (2020).
4. AMERICAN NATIONAL STANDARDS INSTITUTE/AMERICAN SOCIETY OF CIVIL ENGINEERS - (ANSI/ASCE 7).
5. AMERICAN INSTITUTE OF STEEL CONSTRUCTION (ASD/LRFD).
6. AMERICAN WELDING SOCIETY STANDARDS FOR WELDING AS MODIFIED BY AISC SPEC.
7. STRUCTURAL WELDING CODE (ANSI/AWS D1.1 FOR STEEL AND D1.2 FOR ALUMINUM.

MATERIAL SPECIFICATION

1. STEEL

a. PLATES, MISC. SHAPES, BARS	436	Fy = 36,000 PSI
b. PIPES	A53 GRADE B	Fy = 35,000 PSI
c. ELECTRODES	AWS D1.1 Fe70xx	Fy = 70,000 PSI
d. GALVANIZING	A123	

ANCHOR KEY

MARK	NOTES	QTY
(A#)	VERTICAL ORIENTED ANCHOR BOLTED TO EXISTING CONCRETE ROOF STRUCTURE	53

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CONSULTANT:
Encompass
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forensic analysis
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www.encompassinc.com

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer in the State of Minnesota.

ANNE CRISP
Typed Name
47126 — License Number
04.22.2021 — Date

PROJECT:

SOUTH ST. PAUL HRA

JOHN CARROLL APARTMENTS
ROOF REPLACEMENT PROJECT

300 GRAND AVE. WEST
SOUTH ST. PAUL, MN 55075

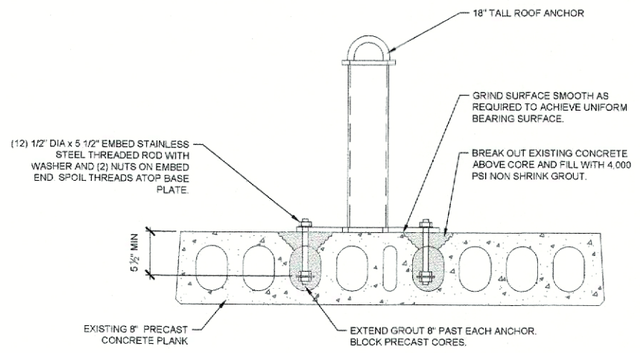
PROJECT NO.: 21-7751-000 / 21002
DRAWN BY: BLL
CHECKED BY: AMC
DATE: 04.22.2021
ISSUES AND REVISIONS:
BID SET 04.22.2021

SHEET TITLE:
ROOF ANCHOR PLAN (ALTERNATE #1)

RA-100

NOTES:

1. PLANK SHALL BE SCANNED PRIOR TO DRILLING TO LOCATE CORES, TENDONS, AND OTHER EMBEDDED ITEMS - DO NOT CUT EMBEDDED ITEMS. CONTACT ENGINEER FOR REVISIONS TO ANCHOR LAY TO AVOID EMBEDDED ITEMS.
2. CONNECTION AS SHOWN IS A CONCEPTUAL DETAIL ONLY AND FOR BASIS OF DESIGN. FINAL CONNECTION SHALL BE BASED ON MANUFACTURER SPECIFIC ANCHOR AND BASE PLATE.
3. BASE PLATE HOLE LAYOUT SHALL BE COORDINATED WITH PRECAST PLANK CORE SPACING.
4. INSTALL ROOF ANCHOR IN STRICT ACCORDANCE TO MANUFACTURER'S INSTRUCTIONS.
5. SEE ARCHITECTURAL DRAWINGS FOR ROOFING AND FLASHING SCOPE AND DETAILS.
6. SEE NOTES ON SHEET RA-100 FOR LOADING REQUIREMENTS.



1 / RA-200 18" TALL ROOF ANCHOR DETAIL ON PRECAST
SCALE: NTS

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CONSULTANT:
Encompass
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forensic analysis
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www.encompassinc.com

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ANNE CRISP
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47126 — License Number
04.22.2021 — Date

PROJECT:

SOUTH ST. PAUL HRA

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ROOF REPLACEMENT
PROJECT

300 GRAND AVE. WEST
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SHEET TITLE:
ROOF ANCHOR DETAILS (ALTERNATE #1)

RA-200

HRA Agenda Report
Date: January 16th, 2024
HRA Executive Director: RJ

6-C

Agenda Item: **Temporary Staffing Discussion**

Action to be considered: Keeping our current temporary employee on through the duration of the John Carroll Plumbing Project

Overview:

As you know in 2022 our Management Contract with Nath Companies was terminated at the request of the HRA, and all housing employees are now employed by the City of South St. Paul. Since the change in Management the City has hired three employees to fill one of the two caretaker positions at the high-rise buildings, as the first two hired employees did not exceed their six-month probationary period.

The John Carroll and Nan McKay Buildings consist of 298 apartment units, several staff offices, common areas, outside areas, and mechanical room areas. The current staffing plan calls for two full-time caretakers, essentially one for each building. Because of the overall size and workload of this portfolio, staff determined it was necessary to hire a temporary employee to help the other one staff person in the cleaning and caretaking of these buildings while we were searching for and training a new City employee for this position. Roughly four weeks ago, the city hired a full-time person to fill this position, who is currently being trained in the tasks of her job and procedures at the high-rise buildings.

The John Carroll Plumbing Project is set to begin in March 2024, with tenants being relocated in phases throughout the project. There is a long "to-do list" for each tenant to prepare for this project and to prepare to be away from their apartment home anywhere from 4-8 weeks. All items in their kitchen, bathroom, and living areas must be packed and moved to a corner of their apartments so that the area can be sealed off to properly abate the asbestos that is in every apartment. On top of getting their apartments ready for construction, they must also get themselves ready for relocation. Packing and carrying their items for themselves and their pets, going on a grocery run to gather food items for the hotels, and loading and unloading their items from John Carroll into the hotels.

John Carroll is an elderly designated building, with most residents aged 70 years or older, often physically unable to do the tasks that the HRA must require them to do. Furthermore, many of our residents have no family or county workers to come and help them, and many will be relying solely on Management to assist them with these tasks.

HRA Staff connected with the staff from Darts, who office out of both high-rise buildings and are our contracted service coordinators for our residents. We discussed possibly hiring someone

from Darts or another outside agency to help assist the tenants with this project, but it was determined that they do not have any staff that can accommodate this request.

Additionally, the high-rise buildings have more than 55 apartment turns estimated for 2024, with several completed in-house by the high-rise employees and several being hired out to a third-party vendor to complete. Staff's opinion is that keeping the temporary employee on through the duration of plumbing project will free up the remaining staffs time to complete these turns, so that zero apartment units need to be cleaned and/or painted by an outside vendor, which will be an immediate cost savings.

The upcoming plumbing project is estimated to cost around $8 million and is expected to take roughly 208 days to complete once started. The project is set to begin mid-March 2024.

We are requesting to keep our temporary caretaker on through the duration of the plumbing project because of the upcoming workload in the building, the recent hiring of a new staff person who is currently being trained, and the expected need to help the residents coordinate their relocation and pack their apartments as required by Management.

The cost to retain our current temporary employee full-time is $1,176 per week, paid directly to Atlas Staffing Agency. A portion of this cost will be coded to the John Carroll Plumbing Project and be paid for with capital dollars, the remaining amount will be paid for with public housing operating funds.

Source of Funds: Public Housing Operating and Capital Dollars