

# **MORRISTOWN HOUSING AUTHORITY**

## **ADMISSIONS AND CONTINUED OCCUPANCY POLICY (ACOP)**

***ADOPTED BY THE HA BOARD OF COMMISSIONERS:***

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# ADMISSIONS AND CONTINUED OCCUPANCY POLICY

## INTRODUCTION

1. Mission Statement – The goal of MHA is to provide drug-free, decent, safe, and sanitary housing for eligible families and to provide opportunities and promote self-sufficiency and economic independence for residents.

In order to achieve this mission, MHA will:

Recognize residents as its ultimate customer;

Improve Public Housing Authority (PHA) management and service delivery efforts through effective and efficient management of PHA staff;

Seek problem-solving partnerships with residents, community, and government leadership;

Apply PHA resources to the effective and efficient management and operation of public housing programs, taking into account changes in Federal funding.

2. Purpose of Policy - The purpose of this Admissions and Continued Occupancy Policy (ACOP) is to establish guidelines for the Morristown Housing Authority (MHA) staff to follow in determining eligibility for admission to and continued occupancy of public housing. The basic guidelines for this policy are governed by requirements of the Department of Housing and Urban Development (HUD), with latitude for local policies and procedures. The Policies and Procedures governing Admissions and Continued Occupancy are outlined in this policy and these requirements are binding upon applicants, residents and this PHA alike. Notwithstanding the above, changes in applicable federal law or regulations shall supersede provisions in conflict with this policy. Federal Regulations shall mean those found in 24 Code of Federal Regulations (CFR) Parts 900.

3. Primary Responsibilities of the PHA

- A. Informing eligible families of the availability of public housing assistance;
- B. Determining and posting annually the utility allowances;
- C. Receiving applications from families and determining their eligibility for assistance;
- D. Inspecting Public Housing units to determine that they meet or exceed Uniform Physical Condition Standards (UPCS);
- E. Approving leases;
- F. Collecting rent on a monthly basis from tenants;
- G. Annual re-examinations of income, family composition and re-determination of rent;
- H. Authorizing and processing evictions; and,

I. Ongoing maintenance and modernization of the public housing inventory.

4. Objectives: - The objectives of this policy are to:

A. Promote the overall goal of drug free, decent, safe and sanitary housing by:

- (1) Insuring a social and economic mix of residents within each public housing neighborhood in order to foster social stability and upward mobility.
- (2) Insuring the fiscal stability of the PHA.
- (3) Lawfully denying admission or continued occupancy to applicants or tenants whose presence in a public housing neighborhood are likely to adversely affect the health, safety, comfort or welfare of other residents or the physical environment of the neighborhood or create a danger to PHA employees.
- (4) Insuring that Elderly families can live in public housing as long as they are able to live independently and/or have someone to help them live independently as in the case of a live-in aide.

B. Facilitate the efficient management of the PHA and compliance with Federal Regulations by establishing policies for the efficient and effective management of the PHA inventory and staff.

C. Comply in letter and spirit with Title VI of the Civil Rights Act of 1964, and all other applicable Federal laws and regulations to insure that admission to and continued occupancy in public housing are conducted without regard to race, color, religion, creed, sex, national origin, handicap, or familial status.

## **1.0 FAIR HOUSING**

It is the policy of the PHA to comply fully with all Federal, State, and local nondiscrimination laws and in accordance with the rules and regulations governing Fair Housing and Equal Opportunity in housing and employment and with the Americans with Disabilities Act. The PHA shall affirmatively further fair housing in the administration of its public housing program.

No person shall, on the grounds of race, color, sex, religion, national or ethnic origin, familial status, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the PHA's programs.

No inquiries shall be made about a person's sexual orientation or gender identity. However, the PHA may inquire about a person's sex in order to determine the number of bedrooms a household may be eligible for under the occupancy standards or to accurately complete HUD's 50058.

To further its commitment to full compliance with applicable Civil Rights laws, the PHA will provide Federal/State/local information to applicants/tenants of the Public Housing Program regarding discrimination and any recourse available to them if they believe they may be victims of discrimination. Such information will be made available with the application, and all applicable Fair Housing Information and Discrimination Complaint Forms will be made available at the PHA office. In addition, all written information and advertisements will contain the appropriate Equal Opportunity language and logo.

The PHA will assist any family that believes they have suffered illegal discrimination by providing the family with copies of the appropriate housing discrimination forms. The PHA will also assist them in completing the forms if requested, and will provide them with the address of the nearest HUD office of Fair Housing and Equal Opportunity. The PHA will keep records of all complaints, investigations, notices and corrective actions for five years.

**Accessibility** - The **Morristown Housing Authority** office is accessible to persons with disabilities. Accessibility for the hearing impaired is provided by the **Tennessee Relay Center (TRC) (1-800-848-0298)**.

## **2.0 REASONABLE ACCOMMODATION**

Sometimes people with disabilities may need a reasonable accommodation in order to take full advantage of the PHA housing programs and related services. When such accommodations are granted, they do not confer special treatment or advantage for the person with a disability; rather, they make the program accessible to them in a way that would otherwise not be possible due to their disability. This policy clarifies how people can request accommodations and the guidelines the PHA will follow in determining whether it is reasonable to provide a requested accommodation. Because disabilities are not always apparent, the PHA will ensure that all applicants/tenants are aware of the opportunity to request reasonable accommodations.

### **2.1 COMMUNICATION**

Anyone requesting an application will be notified that the Request for Reasonable Accommodation form is available at the PHA office. The PHA will assist applicants who wish to make a request with completing the form.

All decisions granting or denying requests for reasonable accommodations will be in writing. If a person is denied the accommodation or feels that the alternative suggestions are inadequate, they may request an informal hearing to review the PHA's decision.

### **2.2 QUESTIONS TO ASK IN GRANTING THE ACCOMMODATION**

- A. Is the requestor a person with disabilities? For this purpose the definition of person with disabilities is different than the definition used for admission. The Fair Housing definition used for this purpose is:

A person with 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 disability may not be apparent to others, i.e., a heart condition.)

If the disability is apparent or already documented, the answer to this question is yes. It is possible that the disability for which the accommodation is being requested is a disability other than the apparent disability. If the disability is not apparent or documented, the PHA will obtain verification that the person requesting the accommodation is a person with a disability.

- B. Is the requested accommodation related to the disability? If it is apparent that the request is related to the apparent or documented disability, the answer to this question is yes. If it is not apparent,



the PHA will obtain documentation that the requested accommodation is needed due to the disability. The PHA will not inquire as to the nature of the disability.

- C. Is the requested accommodation reasonable? In order to be determined reasonable, the accommodation must meet two criteria:
1. Would the accommodation constitute a fundamental alteration? The PHA's business is housing. If the request would alter the fundamental business that the PHA conducts, that would not be reasonable. For instance, the PHA would deny a request to have the PHA do grocery shopping for a person with disabilities.
  2. Would the requested accommodation create an undue hardship? Frequently the requested accommodation costs little or nothing. If the cost would be an undue burden, the PHA may request a meeting with the individual to investigate and consider equally effective alternatives.
- D. Generally the individual knows best what it is he or she needs; however, the PHA retains the right to be shown how the requested accommodation enables the individual to access or use the PHA's programs or services.

If more than one accommodation is equally effective in providing access to the PHA's programs and services, the PHA retains the right to select the most efficient or economic choice.

The cost necessary to carry out approved requests, including requests for physical modifications, will be borne by the PHA if there is no one else willing to pay for the modifications.

If the tenant requests as a reasonable accommodation that they be permitted to make physical modifications at their own expense, the PHA will generally approve such request if it does not violate codes or affect the structural integrity of the unit.

Any request for an accommodation that would enable a tenant to materially violate essential lease terms will not be approved, i.e., allowing nonpayment of rent, destruction of property, disturbing the peaceful enjoyment of others, etc.

### **3.0 SERVICES FOR LIMITED-ENGLISH PROFICIENCY APPLICANTS AND RESIDENTS**

The PHA shall do its best, within reason, to assist people with Limited English Proficiency (LEP). This shall be accomplished by assessing the need of LEP persons using the four factors described in the January 22, 2007 Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons; Notice published in the Federal Register. The PHA shall balance these factors in deciding what to do:

- A. The number or proportion of LEP persons served or encountered in the eligible service area;
- B. The Frequency with which LEP individuals come in contact with the program;
- C. The nature and importance of the program, activity, or service provided by the program; and

D. The resources available to the Housing Authority and costs.

Depending upon what this analysis reveals, the PHA may or may not prepare a Language Access Plan (LAP). If an LAP is needed, the guidance outlined in the above reference Notice shall be utilized.

In addition, the PHA will endeavor to have bilingual staff or access to people who speak languages other than English. Finally, the PHA shall utilize multilingual “I speak” cards to the maximum degree possible.

## **4.0 FAMILY OUTREACH**

The PHA will publicize the availability and nature of the Public Housing Program for extremely low-income, very low and low-income families in a newspaper of general circulation, minority media, and by other suitable means.

To reach people who cannot or do not read newspapers, the PHA will distribute information to broadcasting media and initiate contact with members of the news media and community service personnel. The PHA will also try to utilize public service announcements.

The PHA will communicate the status of housing availability to other service providers in the community and inform them of housing eligibility factors and guidelines so they can make proper referrals for the Public Housing Program.

The objective of this effort is to develop a waiting list that is representative of our low-income community. A particular emphasis will be placed on attracting eligible individuals and families least likely to apply for public housing.

## **5.0 RIGHT TO PRIVACY**

All adult members of both applicant and tenant households are required to annually sign HUD Form 9886, Authorization for Release of Information and Privacy Act Notice. The Authorization for Release of Information and Privacy Act Notice states how family information will be released and includes the Federal Privacy Act Statement.

Any request for applicant or tenant information will not be released unless there is a signed release of information request from the applicant or tenant.

## **6.0 REQUIRED POSTINGS**

In each of its offices, the PHA will post, in a conspicuous place and at a height easily read by all persons including persons with mobility disabilities, the following information:

- A. Statement of Policies and Procedures governing Admission and Continued Occupancy
- B. Notice of the status of the waiting list (opened or closed)
- C. A listing of all the developments by name, address, number of units, office hours, telephone numbers, TDD numbers, and Resident Facilities and operation hours

- D. Income Limits for Admission
- E. Utility Allowance Schedule
- F. Current Schedule of Routine Maintenance Charges
- G. Dwelling Lease
- H. Grievance Procedure
- I. Fair Housing Poster
- J. Equal Opportunity in Employment Poster
- K. Any current PHA Notices
- L. The Agency's PHAS score and designation

## 7.0 TAKING APPLICATIONS

Families wishing to apply for Public Housing shall complete an application for public housing assistance. Applications can be submitted online from the PHA website. Applications can also be submitted by special appointment at the Morristown Housing Authority office, 600 Sulphur Springs Road, Morristown, TN.

Applications are taken to compile a waiting list. Due to the demand for housing in the PHA's jurisdiction, the PHA may take applications on an open enrollment basis, depending on the length of the waiting list.

Completed applications will be accepted for all applicants and the information will be verified by the PHA.

The completed application will be dated and time stamped upon its submission to the PHA.

Persons with disabilities who require a reasonable accommodation in completing an application may call the PHA to make special arrangements. Accessibility for the hearing impaired is available through the **Tennessee Relay Center (TRC) (1-800-848-0298)**.

The application process will involve two phases. The first phase is the initial application for housing assistance. The application requires the family to provide limited basic information (i.e. family composition, income, etc.) establishing any preferences to which they may be entitled. This first phase results in an apparently eligible family's placement on the waiting list.

Upon receipt of the family's application, the PHA will make a preliminary determination of eligibility. The PHA will notify an apparently eligible family in writing of the date and time of placement on the waiting list, and the approximate wait before housing may be offered. If the PHA determines the family to be ineligible, the notice will state the reasons therefore and will offer the family the opportunity of an informal review of the determination.

The applicant may at any time report changes in their applicant status including changes in family composition, income, or preference factors. The PHA will annotate the applicant's file and will update their place on the waiting list. Confirmation of the changes will be made in writing.

The second phase is the final determination of eligibility, which takes place when the family nears the top of the waiting list. The PHA will ensure that verification of all preferences, eligibility, suitability and selection factors are current (less than 60 calendar days old) in order to determine the family's final eligibility for admission into the Public Housing Program.

Applicants will also be given the opportunity to update their HUD Form 92006 if applicable and if they so desire.

## **8.0 ELIGIBILITY FOR ADMISSION**

### **8.1 INTRODUCTION**

There are five eligibility requirements for admission to public housing: qualifies as a family, has an income within the income limits, meets citizenship/eligible immigrant criteria, provides documentation of Social Security numbers, and signs consent authorization documents. In addition to the eligibility criteria, families must also meet the PHA screening criteria in order to be admitted to public housing.

### **8.2 ELIGIBILITY CRITERIA**

- A. Family Status - All families must have a Head of Household or Co-Heads of Household. Head of Household must be 18 years of age or a person that has been relieved of the disability of non-age by court action (sometimes referred to as Court Emancipation). Family includes, but is not limited to, the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:
  - 1. A **family with or without children**. Such a family is defined as a group of people related by blood, marriage, adoption or affinity (regardless of actual or perceived sexual orientation, gender identity, or marital status) that lives together in a stable family relationship.
    - a. Children temporarily absent from the home due to placement in foster care are considered family members.
    - b. Unborn children and children in the process of being adopted are considered family members for the purpose of determining bedroom size but are not considered family members for determining income limit.
  - 2. An **elderly family**, which is:
    - a. A family whose head (including co-head), spouse, or sole member is a person who is at least 62 years of age;
    - b. Two or more persons who are at least 62 years of age living together; or
    - c. One or more persons who are at least 62 years of age living with one or more live-in aides.

3. A **near-elderly family**, which is:
  - a. A family whose head (including co-head), spouse, or sole member is a person who is at least 50 years of age but below the age of 62;
  - b. Two or more persons, who are at least 50 years of age but below the age of 62, living together; or
  - c. 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.
4. A **disabled family**, which is:
  - a. A family whose head (including co-head), spouse, or sole member is a person with a disability;
  - b. Two or more persons with disabilities living together; or
  - c. One or more persons with disabilities living with one or more live-in aides.
  - d. For purposes of qualifying for low-income housing, does not include a person whose disability is based solely on any drug or alcohol dependence.
5. A **displaced family**, which is a family in which each member, or whose sole member, has been displaced by governmental action, or 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.
6. A **remaining member of a tenant family** is a family member of an assisted family who remains in the unit when other family members have left the unit. If the remaining member of a tenant family is a minor or minors, it will be necessary for an adult to temporarily move into a unit to serve as a guardian for children residing in the unit. The income received by the temporary guardian will be counted in determining family income. Although typically a criminal background check is required before anyone can move into a public housing unit, this requirement will be waived for a guardian in this situation. Instead, the background check will occur after the person moves in. If the results of the check dictate that the person is ineligible for public housing, the family shall be given a reasonable time to find a replacement guardian or vacate the property.
7. A **single person** who is not an elderly or displaced person, a person with disabilities, or the remaining member of a tenant family.

B. Income Eligibility

1. To be eligible for admission to developments or scattered-site units, the family's annual income must be within the low-income limit set by HUD. This means the family income cannot exceed 80 percent of the median income for the area. If the property has Low Income Housing Tax Credits on it, a lower income cap will apply.
2. Income limits apply only at admission and are not applicable for continued occupancy.

3. A family may not be admitted to the public housing program from another assisted housing program (e.g., tenant-based Section 8) or from a public housing program operated by another housing authority without meeting the income requirements of the Morristown Housing Authority.
4. If the PHA acquires a property for federal public housing purposes, the families living there must have incomes within the low-income limit in order to be eligible to remain as public housing residents.
5. Income limit restrictions do not apply to families transferring within our Public Housing Program.
6. The PHA may allow police officers who would not otherwise be eligible for occupancy in public housing to reside in a public housing dwelling unit. Such occupancy must be needed to increase security for public housing residents.

#### C. Citizenship/Eligibility Status

1. To be eligible for public housing each member of the family must be a citizen, national, or a non-citizen who has eligible immigration status under one of the categories set forth in Section 214 of the Housing and Community Development Act of 1980 (see 42 U.S.C. 1436a(a)) or a citizen of the Republic of Marshall Islands, the Federated States of Micronesia, or the Republic of Palau. However, people in the last category are not entitled to housing assistance in preference to any United States citizen or national resident within Guam.
2. Family eligibility for assistance.
  - a. A family shall not be eligible for assistance unless at least one member of the family residing in the unit is determined to have eligible status, with the exception noted below.
  - b. Despite the ineligibility of one or more family members, a mixed family may be eligible for one of three types of assistance (See Section 13.6 for calculating rents under the non-citizen rule).
  - c. A family without any eligible members and receiving assistance on June 19, 1995, may be eligible for temporary deferral of termination of assistance.

All adults must be able to sign the lease. If the State of **Tennessee** forbids individuals with ineligible immigration status from executing contracts (i.e., leases or other legal binding documents), then they are ineligible for this program.

#### D. Social Security Number Documentation

Prior to admission, every family member must provide the PHA with a complete and accurate Social Security Number unless they do not contend eligible immigration status. New family members must provide this verification prior to being added to the lease. If the new family member became a member of the household within six months prior to the date of admission and is under the age of six and has not been assigned a Social Security Number, the family shall have ninety (90) calendar days after starting to receive the assistance to provide a complete and accurate Social

Security Number. The PHA shall grant one ninety (90) day extension for newly-added family members under the age of six if in its sole discretion it determines that the person's failure to comply was due to circumstances that could not have reasonably been foreseen and was outside the control of the person. If the Social Security Number is not provided within the required period, the assistance shall be terminated.

If a person is already a program participant and has not disclosed his or her Social Security Number, it must be disclosed at the next re-examination or re-certification.

Participants aged 62 or older as of January 31, 2010 whose initial eligibility determination was begun before January 31, 2010 are exempt from the required disclosure of their Social Security Number. This exemption continues even if the individual moves to a new assisted unit.

The best verification of the Social Security Number is the original Social Security card. If the card is not available, the PHA will accept an original document issued by a federal or state government agency, which contains the name of the individual and the Social Security Number of the individual, along with other identifying information of the individual or such other evidence of the Social Security Number as HUD may prescribe in administrative instructions.

If a member of an applicant family indicates they have a Social Security Number, but cannot readily verify it, the family cannot be assisted until verification is provided. If the Social Security Number of each household member cannot be provided to the PHA within **14** calendar days of it being requested, the family shall be removed from the waiting list. During this **14** calendar days, if all household members have not disclosed their SSN at the time a unit becomes available, the PHA must offer the available unit to the next eligible applicant family on the waiting list.

If an individual fails to provide the verification within the time allowed, the family will be denied assistance or will have their assistance terminated. The Housing Authority shall grant one ninety (90) day extension from termination if in its sole discretion it determines that the person's failure to comply was due to circumstances that could not have reasonably been foreseen and there is a reasonable likelihood that the person will be able to disclose a Social Security Number by the deadline.

#### E. Signing Consent Forms

1. In order to be eligible, each member of the family who is at least 18 years of age, and each family head and spouse regardless of age, shall sign one or more consent forms.
2. The consent form must contain, at a minimum, the following:
  - a. A provision authorizing HUD or the PHA to obtain from State Wage Information Collection Agencies (SWICAs) any information or materials necessary to complete or verify the application for participation or for eligibility for continued occupancy;
  - b. A provision authorizing HUD or the PHA to verify with previous or current employers or other sources of income information pertinent to the family's eligibility for or level of assistance;
  - c. A provision authorizing HUD to request income information from the IRS and the SSA for the sole purpose of verifying income information pertinent to the family's eligibility or level of benefits;

- d. A statement allowing the PHA permission to access the applicant's criminal record with any and all police and/or law enforcement agencies, and
- e. A statement that the authorization to release the information requested by the consent form expires 15 months after the date the consent form is signed.

### **8.3 SUITABILITY**

- A. Applicant families will be evaluated to determine whether, based on their recent behavior, such behavior could reasonably be expected to result in compliance with the public housing lease. The PHA will look at past conduct as an indicator of future conduct. Emphasis will be placed on whether a family's admission could reasonably be expected to have a detrimental effect on the development environment, other tenants, PHA employees, or other people residing in the immediate vicinity of the property. Otherwise eligible families will be denied admission if they fail to meet the suitability criteria.
- B. The PHA will consider objective and reasonable aspects of the family's background, including the following:
  - 1. History of meeting financial obligations, especially rent and any utility payments;
  - 2. Ability to maintain (or with assistance would have the ability to maintain) their housing in a decent and safe condition based on living or housekeeping habits and whether such habits could adversely affect the health, safety, or welfare of other tenants;
  - 3. History of criminal activity by any household member involving crimes of physical violence against persons or property and any other criminal activity including drug-related criminal activity that would adversely affect the health, safety, or well being of other tenants or staff or cause damage to the property;
  - 4. History of disturbing neighbors or destruction of property;
  - 5. Having committed fraud in connection with any Federal housing assistance program, including the intentional misrepresentation of information related to their housing application or benefits derived there from; and
  - 6. History of abusing alcohol in a way that may interfere with the health, safety, or right to peaceful enjoyment by others. In deciding whether to exercise their discretion to admit an individual or household that has engaged in criminal activity, the PHA will consider all of the circumstances relevant to the particular admission or eviction decision, including but not limited to: the seriousness of the offending action; the effect that eviction of the entire household would have on family members not involved in the criminal activity; and the extent to which the leaseholder has taken all reasonable steps to prevent or mitigate the criminal activity.



C. The PHA will ask applicants to provide information demonstrating their ability to comply with the essential elements of the lease. The PHA will verify the information provided. Such verification may include but may not be limited to the following:

1. A credit check of the head, spouse, co-head, and any other adult family members;
2. A rental history check of all adult family members;
3. A criminal background check on all adult household members, including live-in aides at no cost to the applicant. This check will be made through State or local law enforcement. Where the individual has lived outside the local area, the PHA may contact law enforcement agencies where the individual had lived or request a check through the FBI's National Crime Information Center (NCIC). This criminal background check will proceed after each adult household member has signed a consent form designed by the PHA.

The information received as a result of the criminal background check shall be used solely for screening, lease enforcement and eviction purposes. The information derived from the criminal background check shall be shared only with employees of the PHA who have a job-related need to have access to the information. The information shall be maintained confidentially, not misused or improperly disseminated, and destroyed once the purpose(s) for which it was requested has been accomplished and the period for filing a challenge to the PHA's action has expired without a challenge or final disposition of any litigation has occurred;

4. A check of the State's lifetime sex offender registration program for each adult household member, including live-in aides. No household with an individual registered under a State sex offender registration will be admitted to public housing. The PHA will check with our State registry and if the applicant has resided in another State(s), with that State(s)'s list. The PHA will utilize the US Department of Justice's Dru Sjodin National Sex Offender website as an additional resource. The Dru Sjodin National Sex Offender Database is an online, searchable database, hosted by the Department of Justice, which combines the data from individual state sex offender registries.

If an applicant is about to be denied housing based on either the criminal check or the sex offender registration program, the applicant will be informed of this fact and given an opportunity to dispute the accuracy of the information before the denial or eviction occurs. Applicants that are denied housing will be given a "Notice of Occupancy Rights under the Violence Against Women Act" which provides information on their rights and responsibilities under the Violence Against Women Act (VAWA). A copy of the form for "Notice of Occupancy Rights under the Violence Against Women Act" shall also be provided with the notice.

#### **8.4 GROUND FOR DENIAL**

The PHA is not required or obligated to assist families where applicants or members of the applicant's household:

- A. Do not meet any one or more of the eligibility criteria;

- B. Do not supply information or documentation required by the application process;
- C. Have failed to respond to a written request for information or a request to declare their continued interest in the program;
- D. Have a history of not meeting financial obligations, especially rent;
- E. Do not have the ability to maintain (with assistance) their housing in a decent and safe condition where such habits could adversely affect the health, safety, or welfare of other tenants;
- F. Have a history of criminal activity by any household member involving crimes of physical violence against persons or property and any other criminal activity including drug-related criminal activity that would adversely affect the health, safety, or well-being of other tenants or staff or cause damage to the property;

For the purpose of this Policy, if any member of the applicant family has been arrested within the prior five (5) year period for this purpose, they will be determined to have engaged in criminal activity, drug-related criminal activity or violent criminal activity.

Being a victim of domestic violence, dating violence, sexual assault, or stalking is not an appropriate basis for denial of program assistance or for denial of admission, if the applicant otherwise qualifies for assistance or admission. The Authority will require verification in all cases where an applicant claims protection against an action proposed to be taken by the Authority involving such individual. Types of acceptable verifications are outlined in Section 20.2B of the ACOP, and must be submitted within 14 calendar days after receipt of the Housing Authority's written request for verification.

An arrest record, alone, will not serve as sufficient evidence of criminal activity that can support an adverse admission decision. Before the PHA denies admission to an individual or household on the basis of criminal activity by a household member or guest, it will determine that the relevant individual actually engaged in such activity.

An arrest record can trigger an inquiry into whether there is sufficient evidence to determine that a person engaged in disqualifying criminal activity, but is not itself evidence on which to base a determination. The PHA can utilize other evidence, such as police reports detailing the circumstances of the arrest, witness statements, and other relevant documentation to assist them in making a determination that disqualifying conduct occurred. Reliable evidence of a conviction for criminal conduct that would disqualify an individual for tenancy may also be the basis for determining that the disqualifying conduct in fact occurred.

- G. Have a history of disturbing neighbors or destruction of property;
- H. Currently owes rent or other amounts to any housing authority in connection with their public housing or Section 8 programs;
- I. Have committed fraud, bribery or any other corruption in connection with any Federal housing assistance program, including the intentional misrepresentation of information related to their housing application or benefits derived there from;

- J. Were evicted from federally assisted housing within the past three years because of drug-related criminal activity. The three year limit is based on the date of such eviction, not the date the crime was committed.

However, the PHA may admit the household if the PHA determines:

1. The evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program; or
  2. The circumstances leading to the eviction no longer exist (for example, the criminal household member is imprisoned or has died).
- K. Are currently engaging in the illegal use of a controlled substance. For purposes of this section, a member is “currently engaged in” the criminal activity if the person has engaged in this behavior during the previous 12 months;
- L. The PHA determines that it has reasonable cause to believe that a household member’s illegal use or pattern of illegal use of a drug may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents;
- M. The PHA determines that it has reasonable cause to believe that a household member’s abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents;

With respect to criminal activity described in paragraphs J, K, L, and M of this Section, the PHA may require an applicant to exclude a household member in order to be admitted to public housing where that household member has participated in or been culpable for actions described in paragraphs J, K, L, and M that warrants denial.

- N. Have engaged in or threatened abusive or violent behavior towards any PHA staff member or resident;
- O. Fugitive felons, parole violators, and persons 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;
- P. **Denied for Life:** If any family member has been convicted of manufacturing or producing methamphetamine (speed) in a public housing development, in a Section 8 assisted property, or on the premises of other federally assisted housing;
- Q. **Denied for Life:** Has a lifetime registration under a State sex offender registration program.
- R. Has outstanding community service hours with this or any other PHA.

In determining whether to deny admission for illegal drug use by a household member who is no longer engaging in such abuse, or for abuse or a pattern of abuse of alcohol by a household member who is no longer engaging in such abuse, the PHA may consider whether such household member:

1. Is participating in a supervised drug or alcohol rehabilitation program;
2. Has successfully completed a supervised drug or alcohol rehabilitation program; or

3. Has otherwise been successfully rehabilitated.

For this purpose, the PHA 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.

Before the PHA denies admission to the PHA's public housing program on the basis of a criminal record, the PHA must notify the household of the proposed action and must provide the person with the criminal record a copy of the criminal record and an opportunity to dispute the accuracy and relevance of that record. The applicant will have fourteen (14) calendar days to dispute the accuracy and relevance of the record in writing. If the PHA does not receive the dispute within the allotted time, the applicant will be denied.

## **8.5 INFORMAL REVIEW**

- A. If the PHA determines that an applicant does not meet the criteria for receiving public housing assistance, the PHA will promptly provide the applicant with written notice of the determination. The notice must contain a brief statement of the reason(s) for the decision and state that the applicant may request in writing an informal review of the decision within 14 calendar days of the denial. The PHA will describe how to obtain the informal review.

The informal review may be conducted by any person designated by the PHA, other than a person who made or approved the decision under review or subordinate of this person. The applicant must be given the opportunity to present written or oral objections to the PHA's decision. The PHA must notify the applicant of the final decision within 14 calendar days after the informal review, including a brief statement of the reasons for the final decision.

- B. The applicant may request that the PHA provide for an Informal Hearing after the family has notification of an INS decision on their citizenship status on appeal, or in lieu of request of appeal to the INS. This request must be made by the applicant within 30 calendar days of receipt of the Notice of Denial or Termination of Assistance, or within 30 calendar days of receipt of the INS appeal decision.

For the applicants, the Informal Hearing Process above will be utilized with the exception that the applicant will have up to 30 calendar days of receipt of the Notice of Denial or Termination of Assistance, or of the INS appeal decision to request the review.

## **9.0 MANAGING THE WAITING LIST**

### **9.1 OPENING AND CLOSING THE WAITING LIST**

Opening of the waiting list will be announced with a public notice stating that applications for public housing will again be accepted. The public notice will state where, when, and how to apply. The notice will be published in a local newspaper of general circulation and also by any available minority media. The public notice will state any limitations to who may apply. The notice will include the Fair Housing logo and slogan and will be in compliance with Fair Housing requirements.

Closing of the waiting list will also be announced with a public notice. The public notice will state the date the waiting list will be closed and for what bedroom sizes. The public notice will be published in a local newspaper of general circulation and also by any available minority media.

## **9.2 ORGANIZATION OF THE WAITING LIST**

The waiting list will be maintained in accordance with the following guidelines:

- A. Applicants will be placed on a single community-wide waiting list for the PHA's developments;
- B. All applications will be maintained in order of date and time of application, then by preference (if applicable) and bedroom size; and
- C. Any contact between the PHA and the applicant will be documented in the applicant file.

## **9.3 FAMILIES NEARING THE TOP OF THE WAITING LIST**

When a family appears to be nearing the top of the waiting list, the verification process will begin. It is at this point in time that the family's waiting list preference will be verified. If the family no longer qualifies to be near the top of the list, the family's name will be returned to the appropriate spot on the waiting list. The PHA must notify the family in writing of this determination and give the family the opportunity for an informal review.

Applicants will also be given the opportunity to update their HUD Form 92006 if applicable and if they desire.

## **9.4 PURGING THE WAITING LIST**

The PHA will update and purge its waiting list at least annually to ensure that the pool of applicants reasonably represents the interested families for whom the PHA has current information, i.e., applicant's address, family composition, income category, and preferences.

## **9.5 REMOVAL OF APPLICANTS FROM THE WAITING LIST**

The PHA will not remove an applicant's name from the waiting list unless:

- A. The applicant requests in writing that the name be removed;
- B. The applicant fails to respond to a written request for information or a request to declare their continued interest in the program;
- C. The applicant does not meet either the eligibility or suitability criteria for the program; or
- D. The applicant is housed.

Applicants will be offered the right to an informal review before being removed from the waiting list for the reason stated in paragraph C of this section.

## **9.6 MISSED APPOINTMENTS**

All applicants who fail to keep a scheduled appointment with the PHA will be sent a notice of termination of the process for eligibility.

The PHA will allow the family to reschedule for good cause. Generally, no more than one opportunity will be given to reschedule with or without good cause. When good cause exists for missing an appointment, the PHA will work closely with the family to find a more suitable time.

If an applicant claims they did not receive a letter mailed by the PHA that requested the applicant to provide information or to attend an interview, the PHA will determine whether the letter was returned to the PHA. If the letter was not returned to the PHA, the applicant will be assumed to have received the letter.

If the letter was returned to the PHA and the applicant can provide evidence that they were living at the address to which the letter was sent, the applicant would be reinstated with the date and time of the application in effect at the time the letter was sent.

Applicants must notify the PHA, in writing, if their address changes during the application process.

## **9.7 NOTIFICATION OF NEGATIVE ACTIONS**

Any applicant whose name is being removed from the waiting list will be notified by the PHA, in writing, that they have fourteen (14) calendar days from the date of the written correspondence to present mitigating circumstances or request in writing an informal review. The letter will also indicate that their name will be removed from the waiting list if they fail to respond within the timeframe specified. The PHA system of removing applicant names from the waiting list will not violate the rights of persons with disabilities. If an applicant claims that their failure to respond to a request for information or updates was caused by a disability, the PHA will verify that there is in fact a disability and the disability caused the failure to respond, and will provide a reasonable accommodation. An example of a reasonable accommodation would be to reinstate the applicant on the waiting list based on the date and time of the original application.

# **10.0 TENANT SELECTION AND ASSIGNMENT PLAN**

## **10.1 PREFERENCES**

The PHA will select families based on the following preference within each bedroom size category based on our local housing needs and priorities:

- A. Displaced person(s): Individuals or families displaced by government action or 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.
- B. All other applicants.

Based on the above preferences, all families in preference A will be offered housing before any families in preference B.

The date and time of application will be noted and utilized to determine the sequence within the above prescribed preferences.

Notwithstanding the above, families who are elderly, disabled, or displaced will be offered housing before other single persons.

**Units Designed for the Elderly and Disabled (Mixed Population Developments):** Preference will be given to elderly and disabled families. If there are no elderly or disabled families on the list, preference will then be given to near-elderly families. If there are no near-elderly families on the waiting list, units will be offered to families who qualify for the appropriate bedroom size using these priorities. All such families will be selected from the waiting list using the preferences as outlined above.

**Accessible Units:** Accessible units will be first offered to families who may benefit from the accessible features who reside in the development that has the vacancy. If there are no families residing in that development needing the accessible unit, it shall then be offered to families residing in other developments who may benefit from the accessible unit. If there are no families residing in the other developments needing the accessible unit, it shall then be offered to applicants on the waiting list who may benefit from the accessible features. Applicants for these units will be selected utilizing the same preference system as outlined above.

If there are no applicants who would benefit from the accessible features, the units will be offered to other applicants in the order that their names come to the top of the waiting list. Such applicants, however, will be requested to sign a lease rider stating they will accept a transfer if, at a future time, a family requiring an accessible feature applies or a family requires a transfer from a non-accessible unit. Any family required to transfer will be given a 30-day notice.

## **10.2 ASSIGNMENT OF BEDROOM SIZES**

The following guidelines will determine each family's unit size without overcrowding or over-housing:

Number of Bedrooms	Number of Persons	
	Minimum	Maximum
0	1	1
1	1	2
2	2	4
3	3	6
4	4	8
5	5	10

These standards are based on the assumption that each bedroom will accommodate no more than two (2) persons. Zero bedroom units will only be assigned to one-person families.

In determining bedroom size, the PHA will include the presence of children to be born to a pregnant woman, children who are in the process of being adopted, children whose custody is being obtained, children currently under a 50% or more joint custody decree, children who are temporarily away at school, or children who are temporarily in foster care.

In addition, the following considerations may be taken in determining bedroom size:

- A. Children of the same sex may share a bedroom.
- B. Adults and children will not be required to share a bedroom.
- C. Foster adults and/or foster children will not be required to share a bedroom with family members.
- D. Live-in aides will get a separate bedroom.

Exceptions to normal bedroom size standards include the following:

- A. Units smaller than assigned through the above guidelines. A family may request a smaller unit size than the guidelines allow. The PHA will allow the smaller size unit so long as generally no more than two (2) people per bedroom are assigned. In such situations, the family will sign a certification stating they understand they will be ineligible for a larger size unit for a period of two years from the date of admission or until the family size changes, whichever may occur first.
- B. Units larger than assigned through the above guidelines. A family may request a larger unit size than the guidelines allow. The PHA will allow the larger size unit if the family provides a verified medical or disability related need that the family be housed in a larger unit.
- C. If there are no families on the waiting list for a larger size, smaller families may be housed if they sign a release form stating they will transfer (at the family's own expense) to the appropriate size unit when an eligible family needing the larger unit applies. The family transferring will be given a 30 calendar day notice before being required to move.
- D. Larger units may be offered in order to improve the marketing of a development suffering a high vacancy rate.

In no event will a single person who is not an elderly person or a displaced person, or a person with disabilities be provided with a unit that is larger than one-bedroom.

### **10.3 SELECTION FROM THE WAITING LIST**

The PHA shall follow the statutory requirement that at least 40% of newly admitted families in any fiscal year be families whose annual income is at or below 30% of the area median income. To ensure this requirement is met we shall quarterly monitor the incomes of newly admitted families and the incomes of the families on the waiting list. If it appears that the requirement to house extremely low-income families will not be met, we will skip higher income families on the waiting list to reach extremely low-income families.

If admissions of extremely low-income families to the PHA's voucher program during a fiscal year exceed the 75% minimum targeting requirement for the PHA's voucher program, such excess shall be credited (subject to the limitations in this paragraph) against the PHA's basic targeting requirement for the same fiscal year.



The fiscal year credit for voucher program admissions that exceeds the minimum voucher program targeting requirement shall not exceed the lower of:

- A. Ten % of public housing waiting list admissions during the PHA fiscal year;
- B. Ten % of waiting list admissions to the PHA's Section 8 tenant-based assistance program during the PHA fiscal year; or
- C. The number of qualifying low-income families who commence occupancy during the fiscal year of PHA public housing units located in census tracts with a poverty rate of 30 % or more. For this purpose, qualifying low-income family means a low-income family other than an extremely low-income family.

#### **10.4 DECONCENTRATION POLICY**

It is the PHA's policy to provide for deconcentration of poverty and encourage income mixing by bringing higher income families into lower income developments and lower income families into higher income developments. Toward this end, we will skip families on the waiting list to reach other families with a lower or higher income. We will accomplish this in a uniform and non-discriminating manner.

The PHA will affirmatively market our housing to all eligible income groups. Lower income residents will not be steered toward lower income developments and higher income people will not be steered toward higher income developments.

Prior to the beginning of each fiscal year, we will analyze the income levels of families residing in each of our developments and the income levels of the families on the waiting list. Based on this analysis, we will determine the level of marketing strategies and deconcentration incentives to implement.

#### **10.5 DECONCENTRATION INCENTIVES**

The PHA may offer one or more incentives to encourage applicant families whose income classification would help to meet the deconcentration goals of a particular development.

Various incentives may be used at different times, or under different conditions, but will always be provided in a consistent and nondiscriminatory manner.

#### **10.6 OFFER OF A UNIT**

When the PHA discovers that a unit will become available, we will contact the first family on the waiting list who has the highest priority for this type of unit or development and whose income category would help to meet the deconcentration goal and/or the income targeting goal.

The PHA will contact the family first by telephone to make the unit offer. If the family cannot be reached by telephone, the family will be notified of a unit offer via first class mail. The family will be given five (5) calendar days from the date the family was contacted by telephone or from the date the letter was mailed to contact the PHA regarding the offer.

The family will be offered the opportunity to view the unit. The family will have no more than three (3) calendar days to accept or reject the unit. This offer and the family's decision must be documented in the tenant file.

#### **10.7 REJECTION OF UNIT**

If in making the offer to the family the PHA skipped over other families on the waiting list in order to meet their deconcentration goal or offered the family any other deconcentration incentive and the family rejects the unit, the family will not lose their place on the waiting list and will not be otherwise penalized.

If the family rejects two unit offers without good cause, the family will be removed from the waiting list. The PHA will send notice to the family of such removal.

If the family rejects with good cause two unit offers, the family will forfeit their application's date and time. The family will keep their preferences, but the date and time of application will be changed to the date and time the unit was rejected. Good cause includes, among other things, reasons related to health, safety, proximity to work, school, and childcare (for those working or going to school).

#### **10.8 ACCEPTANCE OF UNIT**

Prior to signing the lease, all families (head of household) and other adult family members will be required to attend the Lease and Occupancy Orientation when they are initially accepted for occupancy. The family will not be housed if they have not attended the orientation. Applicants who provide prior notice of an inability to attend the orientation will be rescheduled. Failure of an applicant to attend the orientation, without good cause, may result in the cancellation of the occupancy process. The orientation shall include the resident's rights and responsibilities under the Violence Against Women Act.

The applicant will be provided a copy of the lease, the grievance procedure, utility allowances, the current schedule of routine maintenance charges, and a request for reasonable accommodation form. These documents will be explained in detail. The applicant will sign a certification that they have received these documents and that they have reviewed them with Housing Authority personnel. The certification will be filed in the tenant's file.

The signing of the lease, other required occupancy forms, and the review of financial information are to be privately handled. The head of household and all adult family members will be required to execute the lease prior to admission. One executed copy of the lease will be furnished to the head of household and the PHA will retain the original executed lease in the tenant's file. A copy of the grievance procedure will be provided at the orientation.

The family will pay a security deposit at the time of lease signing.

In the case of a move within public housing (transfer), the security deposit for the first unit will be transferred to the second unit.

In the event there are costs attributable to the family for bringing the first unit into condition for re-renting, the family shall be billed for these charges.

### **11.0 INCOME, EXCLUSIONS, AND DEDUCTIONS FROM INCOME**

To determine annual income, the PHA adds the income of all family members, excluding the types and sources of income that are specifically excluded. Once the annual income is determined, the PHA subtracts all allowable deductions (allowances) to determine the Total Tenant Payment.

### ***11.1 INCOME***

Annual income means all amounts, monetary or not, that:

- A. Go to (or on behalf of) the family head or spouse (even if temporarily absent) or to any other family member; or
- B. Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
- C. Are not specifically excluded from annual income.

If it is not feasible to anticipate a level of income over a 12-month period (e.g. seasonal or cyclic income), or the PHA believes that past income is the best available indicator of expected future income, the PHA 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.

Annual income includes, but is not limited to, the amounts specified in the federal regulations currently found in 24 CFR 5.609:

- A. The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services.
- B. The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness are not 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 is included in income, except to the extent the withdrawal is a reimbursement of cash or assets invested in the operation by the family.
- C. Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness are not 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 an investment is included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income includes the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD. Income that could have been derived from assets worth more than \$1000 that were disposed of for less than fair market value within the past two years will be counted as income.
- D. The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount. (However, deferred periodic amounts from supplemental security income and Social

Security benefits that are received in a lump sum amount or in prospective monthly amounts are excluded.)

E. Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay. (However, lump sum additions such as insurance payments from worker's compensation are excluded.)

F. Welfare assistance

1. Welfare assistance payments

a. Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:

- i. Qualify as assistance under the TANF program definition at 45 CFR 260.31; and
- ii. Are not otherwise excluded under paragraph Section 11.2 of this Policy.

b. If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income consists of:

- i. The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus
- ii. The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this requirement is the amount resulting from one application of the percentage.

2. Imputed welfare income

a. A family's annual income includes the amount of imputed welfare income (because of specified welfare benefits reductions resulting from either welfare fraud or the failure to comply with economic self-sufficiency requirements, as specified in notice to the PHA by the welfare agency) plus the total amount of other annual income.

b. A family's annual income includes imputed welfare income in family annual income, as determined at an interim or regular reexamination of family income and composition during the term of the welfare benefits reduction (as specified in information provided to the PHA by the welfare agency).

c. 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 welfare income, the imputed welfare income is reduced to zero.

- d. The Morristown Housing Authority will not include imputed welfare income in annual income if the family was not an assisted resident at the time of the sanction.
- G. Periodic and determinable allowances, such as alimony, child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling.
- H. All regular pay, special pay, and allowances of a member of the Armed Forces. (Special pay to a member exposed to hostile fire is excluded.)

## **11.2 ANNUAL INCOME**

Annual income does **not** include the following amounts specified in the federal regulations currently found in 24 CFR 5.609:

- A. Income from employment of children (including foster children) under the age of 18 years;
- B. Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone) or payments made under Kin-GAP or similar guardianship care programs for children leaving the juvenile court system;
- C. Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains, and settlement for personal or property losses;
- D. Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
- E. Income of a live-in aide;
- F. The full amount of student financial assistance paid directly to the student or to the educational institution unless it is an athletic scholarship that includes assistance available for housing costs and that portion is included in income;
- G. The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
- H. The amounts received from the following programs:
  - 1. Amounts received under training programs funded by HUD;
  - 2. 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);
  - 3. Amounts received by a participant in other publicly assisted programs that are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, childcare, etc.) and that are made solely to allow participation in a specific program;

4. Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the Housing Authority or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA governing board. No resident may receive more than one such stipend during the same period of time;
5. Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the employment training program;
6. Temporary, nonrecurring or sporadic income (including gifts). This specifically includes temporary income payments from the U. S. Census Bureau, defined as employment lasting no longer than 180 days per year and not culminating in permanent employment;
7. 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;
8. Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);
9. Adoption assistance payments in excess of \$480 per adopted child;
10. The incremental earnings due to employment during a cumulative 12-month period following date of the initial hire shall be excluded. This exclusion is only available to the following families:
  - a. Families whose income increases as a result of employment of a family member who was previously unemployed for one or more years.
  - b. Families whose income increases during the participation of a family member in any economic self-sufficiency or other job training program.
  - c. Families who are or were, within 6 months, assisted under a State TANF or Welfare-to-Work program.

This is often referred to as the Earned Income Disregard.

During the second cumulative 12-month period after the date of initial hire, 50% of the increased income shall be excluded from income.

The disallowance of increased income of an individual family member is limited to a lifetime 48-month period. It only applies for 12 months of the 100% exclusion and 12 months of the 50% exclusion. This is true if it is implemented prior to 09/01/2016. After that date, the lifetime Disregard will end 24 months after it began.

(While HUD regulations allow for the housing authority to offer an escrow account in lieu of having a portion of their income excluded under this paragraph, it is the policy of this housing authority to provide the exclusion in all cases.)

11. Deferred periodic amounts from supplemental security income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts;
12. 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;
13. Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or
14. Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits. These exclusions include:
  - 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. Payments to Volunteers under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5044(f)(1), 5058);
  - c. Certain payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));
  - d. Income derived from certain sub marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);
  - e. Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));
  - f. Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, section 6);
  - g. The first \$2000 of per capita shares received from judgment funds awarded by the Indian National Gaming Commission or the U.S. Claims Court, the interests of individual Indians in trust or restricted lands, and the first \$2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408). This exclusion does not include proceeds of gaming operations regulated by the Commission;
  - h. Amounts of scholarships funded under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070), 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, only (42 U.S.C. 1437f), any financial assistance in excess of amounts received by an individual for tuition and any other required fees and charges under the Higher Education Act of 1965 (20 U.S.C. 1001 *et seq.*), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall not be considered income to that individual if the individual is over the age of 23 with dependent children (Pub. L. 109-115, section 327) (as amended), "See definition of Tuition in Glossary";

- i. Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(g));
- j. Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund (Pub. L. 101-201) or any other fund established pursuant to the settlement in *In Re Agent Orange Liability Litigation*, M.D.L. No. 381 (E.D.N.Y.);
- k. Payments received under the Maine Indian Claims Settlement Act of 1980 (Pub. L. 96-420, 25 U.S.C. 1728);
- l. 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);
- m. Earned income tax credit (EITC) refund payments received on or after January 1, 1991, for programs administered under the United States Housing Act of 1937, title V of the Housing Act of 1949, section 101 of the Housing and Urban Development Act of 1965, and sections 221 (d)(3), 235, and 236 of the National Housing Act (26 U.S.C. 32(l));
- n. 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);
- o. Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));
- p. Any allowance paid under the provisions of 38 U.S.C. 1883(c) to children of Vietnam veterans born with spina bifida (38 U.S.C. 1802-05), children of women Vietnam veterans born with certain birth defects (38 U.S.C. 1811-16), and children of certain Korean service veterans born with spina bifida (38 U.S.C. 1821);
- q. 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(c));
- r. Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931(a)(2)).
- s. Any amount received under the Richard B. Russell School Lunch Act (42 U.S.C. 1760(e)) and the Child Nutrition Act of 1966 (42 U.S.C. 1780(b)), including reduced-price lunches and food under the Special Supplemental Food Program for Women, Infants, and Children (WIC);
- t. Payments, funds or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b));
- u. Payments from any deferred U.S. Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts (42 U.S.C. § 1437a(b)(4));
- v. Compensation received by or on behalf of a veteran for service-connected disability, death, dependency, or indemnity compensation as provided by an amendment by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub. L. 111-269; 25 U.S.C. 4103(9)) to the definition of income applicable to programs authorized under the Native American Housing Assistance and Self-



Determination Act (NAHASDA) (25 U.S.C. 4101 *et seq.*) and administered by the Office of Native American Programs;

- w. A lump sum or a periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the case entitled *Elouise Cobell et al. v. Ken Salazar et al.*, 816 F. Supp. 2d 10 (Oct. 5, 2011 D.D.C.), for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010 (Pub. L. 111-291);
  - x. Any amounts in an “individual development account” as provided by the Assets for Independence Act, as amended in 2002 (Pub. L. 107-110, 42 U.S.C. 604(h)(4));
  - y. Per capita payments made from the proceeds of Indian Tribal Trust Cases as described in PIH Notice 2013-30 “Exclusion from Income of Payments under Recent Tribal Trust Settlements” (25 U.S.C. 117b(a)); and
  - z. Major disaster and emergency assistance received by individuals and families under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub. L. 93-288, as amended) and comparable disaster assistance provided by States, local governments, and disaster assistance organizations (42 U.S.C. 5155(d)).
- aa. ABLE accounts created under the Achieving a Better Life Experience Act of 2014 (ABLE Act) are excluded from the calculation of both income and assets.

The Morristown Housing Authority will not provide exclusions from income in addition to those already provided for by HUD.

### **11.3 DEDUCTIONS FROM ANNUAL INCOME**

The following deductions will be made from annual income:

- A. \$480 for each dependent;
- B. \$400 for any elderly family or disabled family;
- C. The sum of the following, to the extent the sum exceeds three percent of annual income:
  - 1. Unreimbursed medical expenses of any elderly family or disabled family including any fee paid by the participant for the Medicare Prescription Drug Program; and
  - 2. 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, but this allowance may not exceed the earned income received by family members who are 18 years of age or older who are able to work because of such attendant care or auxiliary apparatus.
- D. Reasonable childcare expenses for children 12 and younger necessary to enable a member of the family to be employed or to further his or her education. This deduction shall not exceed the amount of employment income that is included in annual income.

#### **11.4 COOPERATING WITH WELFARE AGENCIES**

The PHA will make its best efforts to enter into cooperation agreements with local welfare agencies under which the welfare agencies will agree:

To provide written verification to the PHA concerning welfare benefits for families applying for or receiving assistance in our housing assistance programs.

#### **11.5 COOPERATING WITH LAW ENFORCEMENT AGENCIES**

The PHA will comply, on a case-by-case basis, with information requests from Federal, State or local law enforcement officers regarding possible fugitive felons and/or a parole or probation violators. The PHA will supply upon legitimate request (1) the current address, (2) Social Security number and (3) photograph (if available) of any recipient of assistance.

The Federal, State or local enforcement officer must submit a request that is (1) written, (2) on law enforcement agency letterhead, and (3) is signed by the requesting officer and his or her immediate supervisor. The request for information must provide the name of the fugitive felon and/or parole or probation violator being sought, and may include other personal information used for identification. The request should also comply with the following requirements:

- A. The law enforcement agency shall notify PHA that the fugitive felon and/or parole or probation violator (i) is fleeing to avoid prosecution, custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor; or (ii) is violating a condition of probation or parole imposed under Federal or State law; or (iii) has information that is necessary for the officer to conduct his/her official duties;
- B. The location or apprehension of the recipient is within the PHA's official duties; and,
- C. The request is made in the proper exercise of the law enforcement agency's official duties.

### **12.0 VERIFICATION**

The PHA will verify information related to waiting list preferences, eligibility, admission, and level of benefits prior to admission. Periodically during occupancy, items related to eligibility and rent determination shall also be reviewed and verified. Income, assets, and expenses will be verified, as well as disability status, need for a live-in aide and other reasonable accommodations; full-time student status of family members 18 years of age and older; Social Security numbers; and citizenship/eligible non-citizen status. Age and relationship will only be verified in those instances where needed to make a determination of level of assistance.

#### **12.1 ACCEPTABLE METHODS OF VERIFICATION**

Age, relationship, U.S. citizenship, and Social Security numbers will generally be verified with documentation provided by the family. For citizenship, the family's certification will be accepted. (Or, for citizenship, documentation such as listed below will be required.) Verification of these items will include photocopies of the Social Security cards and other documents presented by the family, the INS SAVE approval code, and forms signed by the family.

Other information will be verified by the following verification methods acceptable to HUD, in the order of preference indicated:

## **1. Up-front Income Verifications (UIV)**

UIV is the verification of income through an independent source that systematically maintains income information in computerized form for a large number of individuals.

Current UIV resources include the following:

- a. HUD's Enterprise Income Verification (EIV) system** – The PHA will monitor the following EIV reports on a monthly basis – (1) Deceased Tenants Report, (2) Identity Verification Report, (3) Immigration Report, (4) Multiple Subsidy Report, and the (5) New Hires Report. Whether or not an admission is homeless will be noted on the 50058.
- b. State Wage Information Collection Agencies (SWICAs)**
- c. State systems for the Temporary Assistance for Needy Families (TANF) program**
- d. Credit Bureau Information (CBA) credit reports**
- e. Internal Revenue Service (IRS) Letter 1722**
- f. Private sector databases (e.g. The Work Number)**

The PHA will use additional UIV resources as they become available. This will be done before, during and/or after examinations and/or re-examinations of household income as appropriate.

It is important to note that UIV data will only be used to verify a participant's eligibility for participation in a rental assistance program and to determine the level of assistance the participant is entitled to receive and only by properly trained persons whose duties require access to this information. Any other use, unless approved by the HUD Headquarters UIV Security System Administrator, is specifically prohibited and will not occur.

No adverse action can be taken against a participant until the PHA has independently verified the UIV information and the participant has been granted an opportunity to contest any adverse findings through the established grievance procedure. The consequences of adverse findings may include the PHA requiring the immediate payment of any over-subsidy, the entering into a repayment agreement, eviction, criminal prosecution, or any other appropriate remedy.

Furthermore, the information the PHA derives from the UIV system will be protected to ensure that it is utilized solely for official purposes and not disclosed in any way that would violate the privacy of the affected individuals.

## **2. Third-Party Written Verifications**

An original or authentic document generated by a third-party source dated either within the 60-day period preceding the reexamination or the PHA request date. Such documentation may be in the possession of the tenant (or applicant), and is commonly referred to as tenant-provided

documents. It is HUD's position that such tenant-provided documents are written third-party verification since these documents originated from a third-party source. The PHA may, at its discretion, reject any tenant-provided documents and follow up directly with the source to obtain necessary verification of information.

Examples of acceptable tenant-provided documentation (generated by a third-party source) include, but are not limited to: 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. Current acceptable tenant-provided documents will be used for income and rent determinations.

The PHA will obtain consecutive pay stubs covering 30 days for determining annual income from wages. For new income sources or when pay stubs are not available, the PHA will project income based on the information from a traditional written third-party verification form or the best available information.

**Note:** Documents older than 60 days (from the PHA interview/determination or request date) is acceptable for confirming effective dates of income.

Third-party written verifications may also be used to supplement Up-front Income Verifications. They will be utilized when there is a discrepancy of \$200 a month or more and the participant disputes the UIV results.

**Note:** Social Security benefit information in EIV is updated every three months. If the tenant agrees with the EIV-reported benefit information, PHAs do not need to obtain or request a benefit verification letter from the tenant.

### **3. Written Third-Party Verification Form**

Also known as traditional third-party verification. A standardized form to collect information from a third-party source is distributed by the PHA. The form is completed by the third-party by hand (in writing or typeset) when sent the form by the PHA.

HUD recognizes that third-party verification request forms sent to third-party sources often are not returned. In other instances, the person who completes the verification form may provide incomplete information; or some tenants may collude with the third-party source to provide false information; or the tenant intercepts the form and provides false information.

HUD requires the PHA to rely on documents that originate from a third-party source's computerized system and/or database, as this process reduces the likelihood of incorrect or falsified information being provided on the third-party verification request form. The use of acceptable tenant-provided documents, which originate from a third-party source, will improve the integrity of information used to determine a family's income and rent and ultimately reduce improper subsidy payments. This verification process will also streamline the income verification process.

The PHA will allow fourteen (14) calendar days for the return of third-party written verifications prior to continuing on to the next type of verification.

### **4. Third-Party Oral Verifications**

This type of verification includes direct contact with the source, in person or by telephone. When this method is used, staff members will be required to document in writing with whom they spoke, the date of the conversation, the telephone number, and the facts obtained.

## 5. Review of Documents

When UIV, written and oral third-party verifications are not available within the fourteen (14) calendar day period allowed in paragraph 3 above, the Housing Authority will use the information received by the family, provided that the documents provide complete information. Photocopies of the documents, excluding government checks, provided by the family will be maintained in the file. In cases in which documents are viewed and cannot be photocopied, staff reviewing the documents will complete a written statement as to the contents of the document(s).

## 6. Self-Certification and Self-Declaration

When UIV, written and oral third-party verifications are not available within the fourteen (14) calendar day period allowed in paragraph 3 above, and hand-carried verification cannot be obtained, the PHA will accept a statement detailing information needed, signed by the head, spouse, co-head, or other adult family member.

Verification forms and reports received will be contained in the applicant/tenant file. Oral third-party documentation will include the same information as if the documentation had been written, i.e. name, date of contact, amount received, etc.

The following chart comes from PIH Notice 2010-19.

Level	Verification Technique	Ranking
6	<b>Up-front Income Verification (UIV)</b> using HUD's Enterprise Income Verification (EIV) system (not available for income verifications of applicants)	<b>Highest (Mandatory)</b>
5	<b>Up-front Income Verification (UIV)</b> using non-HUD system	<b>Highest (Optional)</b>
4	<b>Written Third-Party Verification</b>	<b>High</b> (Mandatory to supplement EIV-reported income sources and when EIV has no data; Mandatory for non-EIV reported income sources; Mandatory when participant disputes EIV-reported employment and income information <b>and</b> is unable to provide acceptable documentation to support dispute)
3	<b>Written Third-Party Verification Form</b>	<b>Medium-Low</b> (Mandatory if written third-party verification documents are not available or rejected by the PHA; and when the applicant or participant is unable to provide acceptable documentation)

<b>2</b>	<b>Oral Third-Party Verification</b>	<b>Low</b> (Mandatory if written third-party verification is not available)
<b>1</b>	<b>Tenant Declaration</b>	<b>Low</b> (Use as a last resort when unable to obtain any type of third-party verification)

## 12.2 TYPES OF VERIFICATION

The chart below outlines the factors that may be verified and gives common examples of the verification that will be sought. To obtain written third party verification, the PHA will send a request form to the source along with a release form signed by the applicant/tenant via first class mail.

Verification Requirements for Individual Items		
Item to Be Verified	3 <sup>rd</sup> party verification	Hand-carried verification
<b>General Eligibility Items</b>		
Social Security Number	Not Allowed	Original Social Security Card, an appropriate government letter showing the number or other HUD-allowed method
Adult Status of the Head of Household		Valid drivers' license, identification card issued by a government agency, or a birth certificate.
Citizenship	N/A	Signed certification, voter's registration card, birth certificate, etc.
Eligible immigration status	INS SAVE confirmation #	INS card
Disability	Letter from medical professional, SSI, etc	Proof of SSI or Social Security disability payments
Full time student status (if >18)	Letter from school	For high school and/or college students, any document evidencing enrollment
Need for a live-in aide	Letter from doctor or other professional knowledgeable of condition	N/A

Verification Requirements for Individual Items		
Item to Be Verified	3 <sup>rd</sup> party verification	Hand-carried verification
Childcare costs	Letter from care provider	Bills and receipts
Disability assistance expenses	Letters from suppliers, care givers, etc.	Bills and records of payment
Medical expenses	Letters from providers, prescription record from pharmacy, medical professional's letter stating assistance or a companion animal is needed	Bills, receipts, records of payment, dates of trips, mileage log, receipts for fares and tolls
Medicare Prescription Drug Coverage		A card issued by the private prescription drug plan with the words Medicare Rx on it.
Value of and Income from Assets		
Savings, checking accounts	Letter from institution	Passbook, most current statements
CDS, bonds, etc	Letter from institution	Tax return, information brochure from institution, the CD, the bond
Stocks	Letter from broker or holding company	Stock or most current statement, price in newspaper or through Internet
Real property	Letter from tax office, assessment, etc.	Property tax statement (for current value), assessment, records or income and expenses, tax return
Personal property held as an investment	Assessment, bluebook, etc	Receipt for purchase, other evidence of worth
Cash value of whole life insurance policies	Letter from insurance company	Current statement
Assets disposed of for less than fair market value	N/A	





Verification Requirements for Individual Items		
Item to Be Verified	3 <sup>rd</sup> party verification	Hand-carried verification
	<ul style="list-style-type: none"> <li>- whether payments are for out-of-pocket expenses incurred in order to participate in a program</li> <li>- date of first job after program completion</li> </ul>	

### 12.3 VERIFICATION OF CITIZENSHIP OR ELIGIBLE NONCITIZEN STATUS

The citizenship/eligible non-citizen status of each family member regardless of age must be determined.

Prior to being admitted, or at the first reexamination, all citizens and nationals will be required to sign a declaration under penalty of perjury. They will be required to show proof of their status by such means as a birth certificate, military ID, or military DD 214 Form.

Prior to being admitted or at the first reexamination, all eligible non-citizens who are 62 years of age or older will be required to sign a declaration under penalty of perjury. They will also be required to show proof of age.

Prior to being admitted or at the first reexamination, all eligible non-citizens must sign a declaration of their status and a verification consent form and provide their original INS documentation. The PHA will make a copy of the individual's INS documentation and place the copy in the file. The PHA will also verify their status through the INS SAVE system. If the INS SAVE system cannot confirm eligibility, the PHA will mail information to the INS in order that a manual check can be made of INS records.

Family members who do not claim to be citizens, nationals, or eligible non-citizens must be listed on a statement of non-eligible members and the list must be signed by the head of the household.

Non-citizen students on student visas, though in the country legally, are not eligible to be admitted to public housing. If they are members of families that include citizens, the rent must be pro-rated.

Any family member who does not choose to declare their status must be listed on the statement of non-eligible members.

If no family member is determined to be eligible under this section, the family's eligibility will be denied.

The family's assistance will not be denied, delayed, reduced, or terminated because of a delay in the process of determining eligible status under this section, except to the extent that the delay is caused by the family.

If the PHA determines that a family member has knowingly permitted an ineligible non-citizen (other than any ineligible non-citizens listed on the lease) to permanently reside in their public housing unit, the family will be evicted. Such family will not be eligible to be readmitted to public housing for a period of 24 months from the date of eviction or termination.

## **12.4 VERIFICATION OF SOCIAL SECURITY NUMBERS**

Prior to admission, every family member regardless of age must provide the PHA with a complete and accurate Social Security Number unless they do not contend eligible immigration status. New family members must provide this verification prior to being added to the lease. If the new family member is under the age of six and has not been assigned a Social Security Number, the family shall have ninety (90) calendar days after starting to receive the assistance to provide a complete and accurate Social Security Number. The PHA may grant one ninety (90) day extension for newly-added family members under the age of six if in its sole discretion it determines that the person's failure to comply was due to circumstances that could not have reasonably been foreseen and was outside the control of the person.

If a person is already a program participant and has not disclosed his or her Social Security Number, it must be disclosed at the next re-examination or re-certification. Participants aged 62 or older as of January 31, 2010 whose initial eligibility determination was begun before January 31, 2010 are exempt from the required disclosure of their Social Security Number. This exemption continues even if the individual moves to a new assisted unit.

The best verification of the Social Security Number is the original Social Security card. If the card is not available, the PHA will accept an original document issued by a federal or state government agency, which contains the name of the individual and the Social Security Number of the individual, along with other identifying information of the individual or such other evidence of the Social Security Number as HUD may prescribe in administrative instructions.

If a member of an applicant family indicates they have a Social Security Number, but cannot readily verify it, the family cannot be assisted until verification is provided.

If an individual fails to provide the verification within the time allowed, the family will be denied assistance or will have their assistance terminated. The PHA may grant one ninety (90) day extension from termination if in its sole discretion it determines that the person's failure to comply was due to circumstances that could not have reasonably been foreseen and there is a reasonable likelihood that the person will be able to disclose a Social Security Number by the deadline.

## **12.5 TIMING OF VERIFICATION**

Verification information must be dated within sixty (60) calendar days of certification or reexamination. If the verification is older than this, the source will be contacted and asked to provide information regarding any changes.

When an interim reexamination is conducted, the Housing Authority will only verify and update those elements reported to have changed.

## **12.6 FREQUENCY OF OBTAINING VERIFICATION**

Household composition will be verified annually. The frequency that household income will be verified depends on the type of rent method chosen by the family.

For each family member, citizenship/eligible non-citizen status will be verified only once unless the family member is an eligible immigrant in a transitional stage of admission. In this situation, their status must be updated until they are admitted for permanent residency. This verification will be obtained prior to admission. If the status of any family member was not determined prior to admission, verification of their

status will be obtained at the next regular reexamination. Prior to a new member joining the family, their citizenship/eligible non-citizen status will be verified.

For each family member, verification of Social Security number will be obtained only once. This verification will be accomplished prior to admission. When a family member who did not have a Social Security number at admission receives a Social Security number, that number will be verified at the next regular reexamination.

#### **12.7 DISCREPANCIES IN VERIFIED INFORMATION**

During an annual or interim reexamination, the PHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. The PHA will do the following to resolve income discrepancies:

- A. Discuss the income discrepancy with the tenant; and
- B. Request the tenant to provide any documentation to confirm or dispute the unreported or underreported income and/ or income sources; and
- C. In the event the tenant is unable to provide acceptable documentation to resolve the income discrepancy, the PHA will request from the third-party source, any information necessary to resolve the income discrepancy; and
- D. If applicable, determine the tenant's underpayment of rent as a result of unreported or underreported income, retroactively; and

Take any other appropriate action as directed by HUD or the PHA's administrative policies.

### **13.0 DETERMINATION OF TOTAL TENANT PAYMENT AND TENANT RENT**

#### **13.1 FAMILY CHOICE**

At admission and each year in preparation for their annual reexamination, each family is given the choice of having their rent determined under the income method or having their rent set at the flat rent amount.

- A. Families who opt for the flat rent will be required to go through the income reexamination process every three years, rather than the annual review they would otherwise undergo. Their family composition must still be reviewed annually.
- B. Families who opt for the flat rent may request to have a reexamination and return to the income based method at any time for any of the following reasons:
  - 1. The family's income has decreased.
  - 2. The family's circumstances have changed increasing their expenses for childcare, medical care, etc.
  - 3. Other circumstances creating a hardship on the family such that the income method would be more financially feasible for the family.
- C. Families have only one choice per year except for financial hardship cases.

### **13.2 THE INCOME METHOD**

The total tenant payment is equal to the highest of:

- A. 10% of the family's monthly income;
- B. 30% of the family's adjusted monthly income; or
- C. The minimum rent between \$0 and \$50 as established by the PHA.

### **13.3 MINIMUM RENT**

The PHA has set the minimum rent at \$50. If the family requests a hardship exemption, however, the PHA will suspend the minimum rent beginning the month following the family's request until the PHA can determine whether the hardship exists and whether the hardship is of a temporary or long-term nature.

- A. A hardship exists in the following circumstances:
  - 1. When the family has lost eligibility for or is waiting an eligibility determination for a Federal, State, or local assistance program, including a family that includes a member who is a non-citizen 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;
  - 2. When the family would be evicted because it is unable to pay the minimum rent;
  - 3. When the income of the family has decreased because of changed circumstances, including loss of employment; and
  - 4. When a death has occurred in the family.
- B. No hardship. If the PHA determines there is no qualifying hardship, the minimum rent will be reinstated, including requiring back payment of minimum rent for the time of suspension.
- C. Temporary hardship. If the PHA reasonably determines that there is a qualifying hardship but that it is of a temporary nature, the minimum rent will not be imposed for a period of 90 calendar days from the beginning of the suspension of the minimum rent. At the end of the 90-day period, the minimum rent will be imposed retroactively to the time of suspension. The PHA will offer a repayment agreement in accordance with Section 19 of this policy for any rent not paid during the period of suspension. During the suspension period the PHA will not evict the family for nonpayment of the amount of tenant rent owed for the suspension period.
- D. Long-term hardship. If the PHA determines there is a long-term hardship, the family will be exempt from the minimum rent requirement until the hardship no longer exists.
- E. Appeals. The family may use the grievance procedure to appeal the PHA's determination regarding the hardship. No escrow deposit will be required in order to access the grievance procedure.

### 13.4 THE FLAT RENT

The PHA has set a flat rent for each public housing unit. The flat rent is determined annually, based on the market rental value of the unit using one of the following three options:

- A. Option One: The PHA will establish a flat rent for each public housing unit that is no less than 80 percent of the applicable Fair Market Rent (FMR).
- B. Option Two: No less than 80 percent of an applicable small area FMR (SAFMR) or 80% of the unadjusted rent<sup>1</sup>, if applicable, as determined by HUD, or any successor determination, that more accurately reflects local market conditions and is based on an applicable market area that is geographically smaller than the applicable market area used in the first paragraph of this section. If HUD has not determined an applicable SAFMR or unadjusted rent<sup>1</sup>, the PHA will rely on the applicable FMR under the first option or may apply for an exception flat rent under the third option. No other smaller geographical FMRs will be allowed by HUD; (See footnote 1 for HUD's definition of "unadjusted rent" as relates to Flat Rent requirements);
- C. Option Three: The PHA may request, and HUD may approve, on a case-by-case basis, a flat rent that is lower than the amounts in Options One or Two of this section, subject to the following requirements:
  - 1. The PHA must submit an acceptable market analysis of the applicable market.
  - 2. The PHA must demonstrate, based on the market analysis, that the proposed flat rent is a reasonable rent in comparison to rent for other comparable unassisted units, based on the location, quality, size, unit type, and age of the public housing unit and any amenities, housing services, maintenance, and utilities to be provided by the PHA in accordance with the lease.
  - 3. All requests for exception flat rents under this option must be submitted to and pre-approved by HUD. Upon request, exception rent can be extended up to two additional years by HUD.

The PHA will not implement Option Three prior to receiving HUD's written approval.

The option chosen to establish the required flat rent will be the sole decision of the PHA.

There is no utility allowance for families paying a flat rent because the PHA has already factored who pays for the utilities into the flat rent calculation. If the resident pays their own utilities, the calculated flat rent shall be reduced by a reasonable utility allowance based on an energy-conservative household of modest circumstances. Otherwise, the entire flat rent shall be paid by the resident to the PHA.

Annually, no later than 90 days after issuance of new FMRs or SAFMRs by HUD, the PHA will compare the current flat rent amount to the applicable FMR and SAFMR/unadjusted rent<sup>1</sup>. If the flat rent is at least

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<sup>1</sup> The unadjusted rent is the FMR estimated directly from the American Community Survey (ACS) source data that HUD uses to calculate FMRs before HUD applies its state non-metropolitan minimum rent policy. HUD maintains a minimum FMR policy within Housing Choice Voucher program (HCV) in response to numerous public concerns that FMRs in rural areas were too low to operate the HCV program successfully. The policy establishes the FMRs at the higher of the local FMR or the State-wide average FMR of non-metropolitan counties, subject to a ceiling rent cap. The rationale for having a state minimum FMR is that some low-income, low-rent non-metropolitan counties have ACS-based FMR estimates that appear to be below long-term operating costs for standard quality rental

80 percent of the lower of the FMR or SAFMR/unadjusted rent, the PHA is in compliance with the law, and no further steps are necessary. If the flat rent is less than 80 percent of the lower of the FMR and SAFMR, the PHA will adjust the flat rents at no less than 80 percent of the lower of the FMR or SAFMR/unadjusted rent<sup>1</sup>, subject to the utilities adjustment required for tenant-paid utilities, or the PHA may request an exception flat rent pursuant to Option Three, as described above. Revised flat rents will become effective for all families admitted after the flat rent is changed or at the lease renewal for an existing resident. (See footnote 1 for HUD's definition of "unadjusted rent" as relates to Flat Rent requirements).

As for flat rent phase-ins, previous regulations in PIH Notice 2014-12 and the subsequent FAQ's, HUD provided flexibility to PHAs to phase in all flat rent increases over a three-year period, including those increases that were 35 percent or less.

However, the FY 2015 Appropriations Act provides the PHA additional flexibility to establish flat rents at lower amounts, thereby eliminating the need for the three-year phase-in of flat rent increases that are 35 percent or less. **Therefore, the only flat rent increases that will be phased-in are those where a family's rent will increase by more than 35 percent prior to any applicable adjustments for utility payments.**

Agencies that began phase-ins for families with rent increases at 35 percent or less last year shall follow the actions outlined below at the family's next annual rent option:

- 1) On a case-by-case basis, at the family's next annual rent option, compare the updated flat rent amount applicable to the unit to the rent that was being paid by the family immediately prior to the annual rent option;
  - a. If the updated flat rent amount would not increase a family's rental payment by more than 35 percent, the family may choose to pay either the updated flat rent amount or the previously calculated income-based rent;
  - b. If the agency determines that the updated flat rent amount would increase a household's rental payment by more than 35 percent, the family may choose to pay the phased-in flat rent amount resulting from the flat rent impact analysis or the previously calculated income-based rent.

Affected families will be given a 30-day notice of any rent change. Adjustments are applied at the end of the annual lease (for more information on flat rents, see Section 15.3).

The PHA will post the flat rents at the central office. Flat rents are incorporated in this policy upon approval by the Board of Commissioners.

### **13.5 RENT FOR FAMILIES UNDER THE NONCITIZEN RULE**

A mixed family will receive full continuation of assistance if all of the following conditions are met:

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units and raise concerns about housing quality. State minimum FMRs have been set at the respective state-wide population weighted median non-metropolitan rent level, but are not allowed to exceed the U.S. median non-metropolitan rent level.

- A. The family was receiving assistance on June 19, 1995;
- B. The family was granted continuation of assistance before November 29, 1996;
- C. The family's head or spouse has eligible immigration status; and
- D. The family does not include any person who does not have eligible status other than the head of household, the spouse of the head of household, any parent of the head or spouse, or any child (under the age of 18) of the head or spouse.

The family's assistance is prorated in the following manner:

- A. Step 1. Determine the total tenant payment in accordance with 24 CFR §5.628. (Annual income includes income of all family members, including any family member who has not established eligible immigration status.)
- B. Step 2. Family maximum rent is equal to the applicable flat rent for the unit size to be occupied by the family.
- C. Step 3. Subtract the total tenant payment from the family maximum rent. The result is the maximum subsidy for which the family could qualify if all members were eligible ("family maximum subsidy").
- D. Step 4. Divide the family maximum subsidy by the number of persons in the family (all persons) to determine the maximum subsidy per each family member who has citizenship or eligible immigration status ("eligible family member"). The subsidy per eligible family member is the "member maximum subsidy."
- E. Step 5. Multiply the member maximum subsidy by the number of family members who have citizenship or eligible immigration status ("eligible family members"). The product of this calculation is the "eligible subsidy."
- F. Step 6. The mixed family TTP is the maximum rent minus the amount of the eligible subsidy.
- G. Step 7. Subtract any applicable utility allowance from the mixed family TTP. The result of this calculation is the mixed family tenant rent.

When the mixed family's TTP is greater than the maximum rent, the PHA will use the TTP as the mixed family TTP.

### **13.6 UTILITY ALLOWANCE**

The PHA shall establish a utility allowance for all tenant-paid utilities. The allowance will be based on a reasonable consumption of utilities by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful environment. In setting the allowance, the PHA will review the actual consumption of tenant families as well as changes made or anticipated due to modernization (weatherization efforts, installation of energy-efficient appliances, etc). Allowances will

be evaluated at least annually as well as any time utility rates change by 10% or more since the last revision to the allowances.

The utility allowance will be subtracted from the family's income-based rent to determine the amount of the Tenant Rent. The Tenant Rent is the amount the family owes each month to the PHA. The amount of the utility allowance is then still available to the family to pay the cost of their utilities. Any utility cost above the allowance is the responsibility of the tenant.

Utility allowance revisions based on rate changes shall become effective at each family's next interim or annual reexamination.

### ***13.7 PAYING RENT***

Payments of rent and other charges shall be processed according to the PHA Rent Collection Policy. This is a separate policy which is incorporated into this document by reference.

## **14.0 COMMUNITY SERVICE AND SELF-SUFFICIENCY REQUIREMENT**

### ***14.1 GENERAL***

In order to be eligible for continued occupancy, each adult family member must either (1) contribute eight hours per month of community service (not including political activities), or (2) participate in an economic self-sufficiency program, or (3) perform eight hours per month of combined activities as previously described unless they are exempt from this requirement. The eight hours of activity may be completed at 8 hours each month or aggregated across a year, as long as 96 hours are completed by each annual certification.

### ***14.2 EXEMPTIONS***

The following adult family members of tenant families are exempt from this requirement:

- A. Family members who are 62 or older.
- B. Family members who are:
  - 1. blind or disabled as defined under 216(I)(1) or 1614 of the Social Security Act (42 U.S.C. 416(I)(1), Section 1382(c)) and who certify that, because of this disability, she or he is unable to comply with the community service requirements;
  - or
  - 2. Family members who are the primary care giver of such individual.
- C. Family members engaged in work activities as defined in section 407(d) of the Social Security Act (42 U.S.C. Section 607(d)), specified below:
  - 1. Unsubsidized employment;
  - 2. Subsidized private-sector employment;
  - 3. Subsidized public-sector employment;



4. Work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available;
  5. On-the-job-training;
  6. Job-search;
  7. Community service programs;
  8. Vocational educational training (not to exceed 12 months with respect to any individual);
  9. Job-skills training directly related to employment;
  10. 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; and
  11. 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.
- D. Able to meet requirements under a State program funded under part A of Title IV of the Social Security Act (42 U.S.C. Section 601 et seq.) or under any other welfare program in our State, including a State-administered Welfare-to-Work program; or
- E. 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 (42 U.S.C. Section 601 et seq.), or under any other welfare program of our State (HUD has determined that the Supplemental Nutrition Assistance Program (SNAP) qualifies as a welfare program of the state. Therefore, if a tenant is a member of a family receiving assistance under SNAP, and has been found by the State to be in compliance with the program requirements, that tenant is exempt from the CSSR), including a State-administered Welfare-to-Work program, and has not been found by the State or other administering entity to be in non-compliance with such a program.

### ***14.3 NOTIFICATION OF THE REQUIREMENT***

The PHA shall identify all adult family members who are apparently not exempt from the community service requirement.

The PHA shall notify all such family members of the community service requirement and of the categories of individuals who are exempt from the requirement. The notification will provide the opportunity for family members to claim and explain an exempt status in writing. The PHA shall verify such claims. If a resident does not agree with the PHA's determination, he or she can appeal by following the Grievance Policy. Changes in exempt or non-exempt status of a resident shall be reported by the resident to the PHA within ten (14) calendar days of the change.

At lease execution or re-examination, all adult members (18 or older) of a public housing resident family must:

- A. Provide all requested documentation, if applicable, that they qualify for an exemption; (Documentation provided by the tenant will be used (and verified if necessary) by the PHA to determine whether the tenant is exempt from the CSSR), and
- B. Sign a certification that they have received and read the policy and understand that, if they are not exempt, failure to comply with the community service requirement will result in non-renewal of their lease, per 24 CFR 966.4(l)(2)(iii)(D).

When a non-exempt person becomes exempt, it is his or her responsibility to report this to the PHA and provide documentation. When an exempt person becomes non-exempt, it is his or her responsibility to report this to the PHA as soon as possible.

For families paying a flat rent, the obligation begins on the date their annual reexamination would have been effective had an annual reexamination taken place. It will also advise them that failure to comply with the community service requirement will result in ineligibility for continued occupancy at the time of any subsequent annual reexamination.

#### **14.4 VOLUNTEER OPPORTUNITIES**

Eligible community service activities include, but are not limited to, serving at:

- A. Local public or non-profit institutions, such as schools, Head Start Programs, before- or after-school programs, childcare centers, hospitals, clinics, hospices, nursing homes, recreation centers, senior centers, adult daycare programs, homeless shelters, feeding programs, food banks (distributing either donated or commodity foods), or clothes closets (distributing donated clothing);
- B. Non-profit organizations serving PHA residents or their children, such as: Boy or Girl Scouts, Boys or Girls Club, 4-H Clubs, Police Activities League (PAL), organized children's recreation, mentoring, or education programs, Big Brothers or Big Sisters, Garden Centers, community clean-up programs, beautification programs;
- C. Programs funded under the Older Americans Act, such as Green Thumb, Service Corps of Retired Executives, senior meals programs, senior centers, Meals on Wheels;
- D. Public or non-profit 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;
- E. PHA housing to improve grounds or provide gardens (so long as such work does not alter the PHA's insurance coverage), or work through resident organizations to help other residents with problems, including serving on the Resident Advisory Board, outreach and assistance with PHA-run self-sufficiency activities including supporting computer learning centers; and
- F. Care for the children of other residents so parents may volunteer.

In order to facilitate easier documentation of the community service provided, residents shall work exclusively for non-profits. Any required court-ordered community service or probation-based work shall not count towards a resident's required 8 hours per month of community service.

Eligible self-sufficiency activities include, but are not limited, to:

- A. Job readiness or job training while not employed;
- B. 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;
- C. Higher education (junior college or college);
- D. Apprenticeships (formal or informal);
- E. Substance abuse or mental health counseling;
- F. Reading, financial and/or computer literacy classes;
- G. English as a Second Language and/or English proficiency classes;
- H. Budgeting and credit counseling.

The PHA will try to coordinate with social service agencies, local schools, and the Human Resources Office in identifying a list of volunteer community service positions.

Together with the resident advisory councils, the PHA may create volunteer positions such as hall monitoring, litter patrols, and supervising and record keeping for volunteers.

#### **14.5 THE PROCESS**

Upon admission and each annual reexamination thereafter, the PHA will do the following:

- A. Provide a list of known volunteer opportunities to the family members.
- B. Provide information about obtaining suitable volunteer positions.
- C. Provide a volunteer time sheet to the family member. Instructions for the time sheet require the individual to complete the form and have a supervisor date and sign for each period of work.
- D. Review family compliance, and shall verify such compliance at least sixty (60) days before the family's next lease anniversary date. Documentation of the service requirement performance shall be retained in the resident's community service file.

At each regularly scheduled rent re-examination, each non-exempt family member will present a signed certification on a form provided by the PHA of CSSR activities performed over the previous twelve (12) months. The PHA will obtain third-party verification of CSSR completion administered through outside organizations.

#### **14.6 NOTIFICATION OF NON-COMPLIANCE WITH COMMUNITY SERVICE REQUIREMENT**

The PHA will notify any family found to be in non-compliance of the following:

- A. The family member(s) has been determined to be in non-compliance;
- B. That the determination is subject to the grievance procedure, a right to be represented by counsel, and the opportunity to any available judicial remedy; and
- C. That, unless the family member(s) enter into a written workout agreement, the lease will not be renewed.

#### **14.7 OPPORTUNITY FOR CURE**

The PHA will offer the family member(s) the opportunity to enter into a work-out agreement prior to the anniversary of the lease. The agreement shall state that the family member(s) agrees to enter into an economic self-sufficiency program or agrees to contribute to community service for as many hours as needed to comply with the requirement over the past 12-month period. It will state the number of hours that the family member is deficient. The cure shall occur over the 12-month period beginning with the date of the agreement and the resident shall at the same time stay current with that year's community service requirement. The first hours a resident earns go toward the current commitment until the current year's commitment is made.

The volunteer coordinator will assist the family member in identifying volunteer opportunities and will track compliance on a monthly basis.

If any applicable family member does not accept the terms of the agreement, does not fulfill their obligation to participate in an economic self-sufficiency program, or falls behind in their obligation under the agreement to perform community service, the PHA shall take action to terminate the lease unless the non-compliant family member no longer lives in the unit.

#### **14.8 PROHIBITION AGAINST REPLACEMENT OF AGENCY EMPLOYEES**

In implementing the service requirement, the PHA may not substitute community service or self-sufficiency activities performed by residents for work ordinarily performed by its employees or replace a job at any location where residents perform activities to satisfy the service requirement.

### **15.0 RECERTIFICATIONS**

At least annually, the PHA will conduct a reexamination of family income and circumstances. The results of the reexamination determine (1) the rent the family will pay, and (2) whether the family is housed in the correct unit size.

#### **15.1 GENERAL**

The PHA will send a notification letter to the family letting them know that it is time for their annual reexamination, giving them the option of selecting either the flat rent or income method, and scheduling an appointment if they are currently paying an income rent. The letter also includes, for those families paying the income method, forms for the family to complete in preparation for the interview.

During the appointment, the PHA will determine whether family composition may require a transfer to a different bedroom size unit, and if so, the family's name will be placed on the transfer list.

Also, during the recertification, each household shall be asked whether any member is subject to the lifetime registration requirement under a state registration program. The Housing Authority will verify this information using the Dru Sjodin National Sex Offender Database. For any admissions after June 25, 2001 (the effective date of the Screening and Eviction for Drug Abuse and Other Criminal Activity final rule), if the recertification screening reveals that the tenant or a member of the tenant's household is subject to a lifetime sex offender registration requirement, or that the tenant has falsified information or otherwise failed to disclose his or her criminal history on their application and/or recertification forms, the Housing Authority will pursue eviction of the household.

If a family is about to be evicted from housing based on the sex offender registration program, the applicant will be informed of this fact and given an opportunity to dispute the accuracy of the information before the eviction occurs.

## **15.2 MISSED APPOINTMENTS**

A family's failure to respond to the letter and failure to attend the interview will result in the PHA taking eviction actions against the family.

## **15.3 FLAT RENTS**

The annual letter to flat rent payers regarding the reexamination process will state the following:

- A. Families who opt for the flat rent will be required to go through the income reexamination process every three years, rather than the annual review they otherwise would undergo.
- B. Families who opt for the flat rent may request to have a reexamination and return to the income based method at any time for any of the following reasons:
  - 1. The family's income has decreased.
  - 2. The family's circumstances have changed increasing their expenses for childcare, medical care, etc.
  - 3. Other circumstances creating a hardship on the family such that the income method would be more financially feasible for the family.

Once a family returns to the income based method during their "lease year" they cannot go back to a flat rent until their next regular annual reexamination.

- C. A certification for the family to sign accepting or declining the flat rent.

Each year prior to their anniversary date, PHA will send a reexamination letter to the family offering the choice between a flat rent or an income rent. The opportunity to select the flat rent is available only at this time. At the appointment, the PHA may assist the family in identifying the rent method that would be most advantageous for the family. If the family wishes to select the flat rent method without meeting with the PHA representative, they may make the selection on the form and return the form to the PHA. In such case, the PHA will cancel the appointment and solely verify the family size and whether it is in an appropriate size unit.

## **15.4 THE INCOME METHOD**

A. Over-Income Residents

The Morristown Housing Authority shall track all public housing residents who have an income over 120% of the Area Median Income (AMI). After exceeding this 120% threshold for 2 consecutive years, the resident's rent shall change. Exactly how this will occur depends on a HUD regulation that has not yet been published. Details will be determined after the regulation has been published. This is being inserted in the ACOP at this time to give our residents notice of this changing policy being implemented.

During the interview, the family will provide all information regarding income, assets, deductions (eligible expenses), and other information necessary to determine the family's share of rent. The family will sign the HUD consent form and other consent forms that later will be mailed to the sources that will verify the family circumstances.

Upon receipt of verification, the PHA will determine the family's annual income and will calculate their rent as follows.

The total tenant payment is equal to the highest of:

- A. 10% of the family's monthly income;
- B. 30% of the family's adjusted monthly income;
- C. The minimum rent.

**15.5 EFFECTIVE DATE OF RENT CHANGES FOR ANNUAL REEXAMINATIONS**

The new rent will generally be effective upon the anniversary date with thirty (30) calendar days notice of any rent increase to the family.

If the rent determination is delayed due to a reason beyond the control of the family, then any rent increase will be effective the first of the month after the month in which the family receives a 30-day notice of the amount. If the new rent is a reduction and the delay is beyond the control of the family, the reduction will be effective as scheduled on the anniversary date.

If the family caused the delay, then any increase will be effective on the anniversary date. Any reduction will be effective the first of the month after the rent amount is determined.

**15.6 INTERIM REEXAMINATIONS**

During an interim reexamination, only the information affected by the changes being reported will be reviewed and verified.

Families will not be required to report any increase in income or decrease in allowable expenses between annual reexaminations.

Families are required to report the following changes to the PHA between regular reexaminations. If the family's rent is being determined under the income method, these changes will trigger an interim reexamination. The family shall report these changes within fourteen (14) calendar days of their occurrence.

- A. A member has been added to the family through birth or adoption or court-awarded custody.
- B. A household member is leaving or has left the family unit.

In order to add a household member other than through birth, adoption, or court-awarded custody, the family must request that the new member be added to the lease. Before adding the new member to the lease, the individual must complete an application form stating their income, assets, and all other information required of an applicant. The individual must provide their Social Security number if they have one and must verify their citizenship/eligible immigrant status. (Their housing will not be delayed due to delays in verifying eligible immigrant status other than delays caused by the family.) The new family member will go through the screening process similar to the process for applicants. The PHA will determine the eligibility of the individual before adding them to the lease. If the individual is found to be ineligible or does not pass the screening criteria, they will be advised in writing and given the opportunity for an informal review. If they are found to be eligible and do pass the screening criteria, their name will be added to the lease. At the same time, if the family's rent is being determined under the income method, the family's annual income will be recalculated taking into account the circumstances of the new family member. The effective date of the new rent will be in accordance with Section 15.8.

A resident requesting a live-in-aide will be required to provide verification of the need for a live-in-aide. In addition, before approval of the live-in-aide, the individual (live-in-aide) must complete an application form for purposes of determining citizenship/eligible immigrant status and the live-in-aide will go through the screening process similar to the process for applicants. The PHA will determine the eligibility of the live-in-aide before approval can be granted. If the individual is found to be ineligible or does not pass the screening criteria, the resident will be advised in writing and given the opportunity for an informal review. Under no circumstances will the live-in-aide be added to the lease or be considered the last remaining member of a tenant family.

Families are not required to, but may at any time, request an interim reexamination based on a decrease in income, an increase in allowable expenses, or other changes in family circumstances. Upon such request, the PHA will take timely action to process the interim reexamination and recalculate the tenant's rent.

#### **15.7 SPECIAL REEXAMINATIONS**

If a family's income is too unstable to project for twelve (12) months, including families that temporarily have no income (0 renters) or have a temporary decrease in income, the PHA may schedule special reexaminations every ninety (90) calendar days until the income stabilizes and an annual income can be determined.

#### **15.8 EFFECTIVE DATE OF RENT CHANGES DUE TO INTERIM OR SPECIAL REEXAMINATIONS**

Unless there is a delay in reexamination processing caused by the family, any rent increase will be effective the first of the second month after the month in which the family receives notice of the new rent amount. If the family causes a delay, then the rent increase will be effective on the date it would have been effective had the process not been delayed (even if this means a retroactive increase).

If the new rent is a reduction and any delay is beyond the control of the family, the reduction will be effective the first of the month after the interim reexamination should have been completed.

If the new rent is a reduction and the family caused the delay or did not report the change in a timely manner, the change will be effective the first of the month after the rent amount is determined.

## **15.9 HOUSING AUTHORITY MISTAKES IN CALCULATING RENT**

If the PHA makes a mistake in calculating a resident's rent contribution and overcharges the resident, the resident shall receive a refund for the amount of the mistake going back a maximum of twelve months. The refund shall be given to the resident as soon as practical or credited to the resident's account, whichever the resident desires unless the resident owes the Housing Authority money in which case the debt shall be offset to the degree possible before the resident chooses between the two refund methods.

## **15.10 OVER-INCOME FAMILIES**

Beginning December 1, 2018, the PHA shall track all public housing residents who have an income over 120% of the Area Median Income (AMI). This is defined as 2.4 times the HUD determined Very Low-Income limit for our jurisdiction. The limit will be adjusted each year within 60 days after HUD published new income limits. When the Housing Authority becomes aware, through an annual reexamination or an interim reexamination for an increase in income, that a family's income exceeds the applicable income limit, the Housing Authority must, per HUD regulation, document in the family's tenant file that the family exceeds the threshold to compare with the family's income a year later.

If, one year after the initial determination by the Housing Authority that a family's income exceeds the over-income limit, and the family's income continues to exceed the over-income limit, the Housing Authority must, as required by HUD regulation, provide written notification to the family that their income has exceeded the over-income limit for one year. The written notification shall further state that if the family's income continues to exceed the over-income limit for the next 12 consecutive months, the family will be subject to either a higher rent (as determined on a HUD formula) or termination based on the Housing Authority's policies. [DELETE THE OPTION THAT DOES NOT APPLY AFTER HUD PUBLISHES ADDITIONAL INFO] All notices and communications will be provided in a manner appropriate for persons with hearing, visual or other disabilities.

If the PHA discovers through an annual or interim exam that the family's income falls below the over-income limit, the two-year period starts over again if the family exceeds the limit in the future.

The termination or higher rent payment decision will be made after HUD publishes additional information and guidelines.

Exempted from this regulation are families with a valid Family Self-Sufficiency (FSS) contract or families where at least one family member is receiving the Earned Income Disregard benefit.

## **16.0 UNIT TRANSFERS**

### **16.1 OBJECTIVES OF THE TRANSFER POLICY**

The objectives of the Transfer Policy include the following:

- A. To address emergency situations.
- B. To fully utilize available housing resources while avoiding overcrowding by ensuring that each family occupies the appropriate size unit.
- C. To facilitate a relocation when required for modernization or other management purposes.



- D. To facilitate relocation of families with inadequate housing accommodations.
- E. To assist residents, lawful occupants, or affiliated individuals who are victims of actual or threatened domestic violence, dating violence, sexual assault, or stalking according to VAWA.
- F. To eliminate vacancy loss and other expenses due to unnecessary transfers.

## **16.2 CATEGORIES OF TRANSFERS**

Category 1: Emergency transfers. These transfers are necessary when conditions pose an immediate threat to the life, health, or safety of a family or one of its members or where a family member, lawful occupant, or affiliated individual is a victim of actual or threatened domestic violence, dating violence, sexual assault, or stalking to family member or affiliated individuals. Such situations may involve defects of the unit or the building in which it is located, the health condition of a family member, a hate crime, the safety of witnesses to a crime, or a law enforcement matter particular to the neighborhood. All emergency transfers shall be completed as soon as practical.

The PHA has a specific VAWA Emergency Transfer Policy that is incorporated by reference into this ACOP and will govern all transfers requested under VAWA.

Category 2: Immediate administrative transfers. These transfers are necessary in order to permit a family needing accessible features to move to a unit with such a feature or to enable modernization, revitalization, disposition or demolition work to proceed. When an accessible unit becomes available, it shall first be offered to families needing it who reside on the site that has the vacancy, then to other public housing residents needing the special accessibility features, and finally to appropriate people on the waiting list.

Category 3: Regular administrative transfers. These transfers are made to offer incentives to families willing to help meet certain PHA occupancy goals, to correct occupancy standards where the unit size is inappropriate for the size and composition of the family, to allow for non-emergency but medically advisable transfers, and other transfers approved by the PHA when a transfer is the only or best way of solving a serious problem.

Category 4: Convenience Transfers. Requests made by families with no apparent need to transfer.

## **16.3 DOCUMENTATION**

When the transfer is at the request of the family, the family may be required to provide third party verification of the need for the transfer.

When the transfer is a result of an action protected under VAWA, the documentation required under the VAWA Emergency Transfer shall be required.

## **16.4 PROCESSING TRANSFERS**

Transfers on the waiting list will be sorted by the above categories and within each category by date and time.

Transfers in category 1 and 2 will be housed ahead of any other families, including those on the applicant waiting list. Transfers in category 1 will be housed ahead of transfers in category 2.

Transfers in category 3 will be housed along with applicants for admission at a ratio of one transfer for every six admissions.

Transfers in category 4 will be housed only at the discretion of the Housing Authority. All other categories as well as all applicants will be housed ahead of transfers in category 4.

Upon offer and acceptance of a unit, the family will execute all lease documents one (1) week of being informed the unit is ready to rent. The family will be allowed fourteen (14) calendar days to complete a transfer. The family will be responsible for paying rent at the old unit as well as the new unit for any period of time they have possession of both. The rent and other charges must be paid the month following the completion of the transfer.

The following is the policy for the rejection of an offer to transfer:

- A. If the family rejects with good cause any unit offered, they will not lose their place on the transfer waiting list.
- B. If the transfer is being made at the request of the PHA and the family rejects two offers without good cause, the PHA will take action to terminate their tenancy. If the reason for the transfer is that the current unit is too small to meet the PHA's optimum occupancy standards, the family may request in writing to stay in the unit without being transferred so long as their occupancy will not exceed two people per living/sleeping room.
- C. If the transfer is being made at the family's request, the family may, without good cause and without penalty, turn down one offer. After turning down a second such offer without good cause, the family's name will be removed from the transfer list.

#### **16.5 COST OF THE FAMILY'S MOVE**

The cost of the transfer generally will be borne by the family in the following circumstances:

- A. When the transfer is made at the request of the family or by others on behalf of the family (i.e., by the police);
- B. When the transfer is made under VAWA.
- C. When the transfer is needed to move the family to an appropriately sized unit, either larger or smaller;
- D. When the transfer is necessitated because a family with disabilities needs the accessible unit into which the transferring family moved (The family without disabilities signed an agreement to this effect prior to accepting the accessible unit).
- E. When the transfer is needed because action or inaction by the family caused the unit to be unsafe or uninhabitable.

The cost of the transfer will be borne by the PHA in the following circumstances:

- A. When the transfer is needed in order to carry out modernization, disposition or demolition activities; or

B. When action or inaction by the PHA has caused the unit to be unsafe or inhabitable; or

The responsibility for moving costs in other circumstances will be determined on a case by case basis.

#### **16.6 TENANTS IN GOOD STANDING**

When the transfer is at the request of the family, it will not be approved unless the family is in good standing with the PHA or a VAWA victim. This means the family must be in compliance with their lease (including community service), current in all payments to the Housing Authority, must pass a housekeeping inspection, and must have been a tenant for one (1) year (unless to correct bedroom size).

#### **16.7 TRANSFER REQUESTS**

A tenant may request a transfer at any time by completing a transfer request form. In considering the request, the PHA may request a meeting with the tenant to better understand the need for transfer and to explore possible alternatives.

If the transfer is approved, the family's name will be added to the transfer waiting list.

If the transfer is requested under VAWA, the provisions of VAWA shall apply.

#### **16.8 RIGHT OF THE PHA IN TRANSFER POLICY**

The provisions listed above are to be used as a guide to ensure fair and impartial means of assigning units for transfers. It is not intended that this policy will create a property right or any other type of right for a tenant to transfer or refuse to transfer.

### **17.0 INSPECTIONS**

An authorized representative of the PHA and an adult family member will inspect the premises prior to commencement of occupancy. A written statement of the condition of the premises will be made, all equipment will be provided, and the statement will be signed by both parties with a copy retained in the PHA file and a copy given to the family member. An authorized PHA representative will inspect the premises at the time the resident vacates and will furnish a statement of any charges to be made provided the resident turns in the proper notice under State law. The resident's security deposit can be used to offset against any PHA damages to the unit.

#### **17.1 MOVE-IN INSPECTIONS**

The PHA and an adult member of the family will inspect the unit prior to signing the lease. Both parties will sign a written statement of the condition of the unit. A copy of the signed inspection will be given to the family and the original will be placed in the tenant file.

#### **17.2 ANNUAL INSPECTIONS**

The PHA will inspect each public housing unit annually to ensure that each unit meets the PHA's housing standards. Work orders will be submitted and completed to correct any deficiencies.

#### **17.3 PREVENTATIVE MAINTENANCE INSPECTIONS**

This is generally conducted along with the annual inspection. This inspection is intended to keep items in good repair. It checks weatherization; checks the condition of the smoke detectors, water heaters, furnaces, automatic thermostats and water temperatures; checks for leaks; and provides an opportunity to change furnace filters and provide other minor servicing that extends the life of the unit and its equipment.

#### **17.4 SPECIAL INSPECTIONS**

A special inspection may be scheduled to enable HUD or others to inspect a sample of the housing stock maintained by the PHA.

#### **17.5 NOTICE OF INSPECTION**

For inspections defined as annual inspections, preventative maintenance inspections, and special inspections, the PHA will give the tenant at least two (2) calendar days written notice.

#### **17.6 EMERGENCY INSPECTIONS**

If any employee and/or agent of the PHA has reason to believe that an emergency exists within the housing unit or that the unit has been abandoned, the unit can be entered without notice. The person(s) that enters the unit will leave a written notice to the resident that indicates the date and time the unit was entered and the reason why it was necessary to enter the unit.

#### **17.7 MOVE-OUT INSPECTIONS**

The PHA conducts the move-out inspection after the tenant vacates to assess the condition of the unit and determine responsibility for any needed repairs. The tenant may attend the move-out inspection if he or she wishes to do so. This inspection becomes the basis for any claims that may be assessed against the security deposit.

#### **17.8A MINIMUM HEATING STANDARD**

The PHA shall use the following minimum heating requirements for public housing dwelling units in order to comply with Section 111 of HOTMA.

A. Minimum Temperature:

In properties where the heat is PHA-controlled, the minimum in each unit must be at least 68 degrees Fahrenheit.

In properties where the heat is tenant-controlled, then the heating equipment must have the capability of heating to at least 68 degrees Fahrenheit.

B. Minimum Temperature Capability

PHAs are allowed flexibility in maintenance of the indoor temperature when the outdoor temperature approaches the design day temperature. [1]. At no point should indoor temperatures in occupied space drop below 55 degrees Fahrenheit. This flexibility applies when at least one of the below criteria are met:

1. The outside temperature reaches or drops below the design day temperature, or
2. The outside temperature is within five degrees Fahrenheit of the design day temperature for more than two continuous days.

## C. Measurement

Temperature measurements must be taken three feet above the floor and two feet from an exterior wall in a habitable room.

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[1] Design-day temperature refers to the lowest expected outdoor temperature that a heating system was designed to accommodate and still maintain the desired indoor temperature. This should translate, depending on local building code, to an outdoor temperature in the 1st to 5th percentiles of low outdoor temperatures for an area. For example, for Washington, DC the design day temperature is around 17°F. This means that 97.5% of the time the outside temperature will be at least 17°F. Therefore, a properly sized heating system in Washington, DC should be able to maintain a building's indoor temperature at 68°F when it is at least 17°F outside.

## 18.0 PET POLICY

### 18.1 EXCLUSIONS

This policy does not apply to service animals, support animals, assistance animals, or therapy animals that are used to assist persons with disabilities. These animals are allowed in all public housing facilities with no restrictions other than those imposed on all tenants to maintain their units and associated facilities in a decent, safe, and sanitary manner and to refrain from disturbing their neighbors. The person requesting this exclusion to the Pet Policy of this housing authority must have a disability and the accommodation must be necessary to afford the person with a disability an equal opportunity to use and enjoy a dwelling.

To show that a requested accommodation may be necessary, there must be an identifiable relationship between the requested accommodation and the person's disability. The PHA will verify the existence of the disability, and the need for the accommodation—if either is not readily apparent. Accordingly, persons who are seeking a reasonable accommodation for an emotional support animal will be required to provide documentation from a physician, psychiatrist, social worker, or other mental health professional that the animal provides support that alleviates at least one of the identified symptoms or effects of the existing disability.

In addition, the PHA is not required to provide any reasonable accommodation that would pose a direct threat to the health or safety of others. Thus, if the particular animal requested by the individual with a disability has a history of dangerous behavior, the animal will not be accepted into housing. Moreover, the PHA is not required to make a reasonable accommodation if the presence of the assistance animal would (1) result in substantial physical damage to the property of others unless the threat can be eliminated or significantly reduced by a reasonable accommodation; (2) pose an undue financial and administrative burden; or (3) fundamentally alter the nature of the provider's operations.

### 18.2 PETS IN PUBLIC HOUSING

The PHA allows for pet ownership in its developments with the written pre-approval of the PHA. Residents are responsible for any damage caused by their pets, including the cost of fumigating or cleaning their units. In exchange for this right, resident assumes full responsibility and liability for the pet and agrees to hold the PHA harmless from any claims caused by an action or inaction of the pet.

### 18.3 APPROVAL

Residents must have the prior written approval of the PHA before moving a pet into their unit. Residents must request approval on the Authorization for Pet Ownership Form that must be fully completed before the PHA will approve the request. Residents must give the PHA a picture of the pet, and veterinarian documents (shots, spayed/neutered, etc).

#### **18.4 TYPES AND NUMBER OF PETS**

The PHA will allow only common household pets. This means only domesticated animals such as a dog, cat, bird, hamster, gerbil, guinea pig, or fish in aquariums will be allowed in units. Common household pets do not include reptiles. If this definition conflicts with a state or local law or regulation, the state or local law or regulation shall govern.

All dogs and cats must be spayed or neutered before they become six (6) months old. A licensed veterinarian must verify this fact.

Only one pet per unit will be allowed. A maximum of two birds may be permitted and in the case of fish, no more than one aquarium with a 20 gallon capacity shall be allowed. Only one hamster, gerbil, or guinea pig will be allowed. Pets other than cats or dogs must have suitable housing such as cages or aquariums.

Any animal deemed to be potentially harmful to the health or safety of others, including attack or fight trained dogs, will not be allowed. The following breeds will not be allowed: pit bull, Rottweiler, chow, or boxer breeds.

No animal may exceed twenty (20) pounds in weight, and fifteen (15) inches in height projected to full adult size.

#### **18.5 INOCULATIONS**

In order to be registered, pets must be appropriately inoculated against rabies, distemper and other conditions prescribed by state and/or local ordinances. They must comply with all other state and local public health, animal control, and anti-cruelty laws including any licensing requirements. A certification signed by a licensed veterinarian or state or local official shall be filed with the PHA to attest to the inoculations.

#### **18.6 PET DEPOSIT**

A non-refundable pet fee is required at the time of registering a pet.

#### **18.7 FINANCIAL OBLIGATION OF RESIDENTS**

Any resident who owns or keeps a pet in their dwelling unit will be required to pay for any damages caused by the pet. Also, any pet-related insect infestation in the pet owner's unit will be the financial responsibility of the pet owner and the PHA reserves the right to exterminate and charge the resident.

#### **18.8 NUISANCE OR THREAT TO HEALTH OR SAFETY**

The pet and its living quarters must be maintained in a manner to prevent odors and any other unsanitary conditions in the owner's unit and surrounding areas.

Repeated substantiated complaints by neighbors or PHA personnel regarding pets disturbing the peace of neighbors through noise, odor, animal waste, or other nuisance may result in the owner having to remove the pet or move him/herself.

Pets that make noise continuously and/or incessantly disturb any person at any time of day or night shall be considered a nuisance.

### **18.9 DESIGNATION OF PET AREAS**

Pets must be kept in the owner's apartment or on a leash at all times when outside the unit (no outdoor cages may be constructed). Pet owners must clean up after their pets and are responsible for disposing of pet waste.

With the exception of assistive animals no pets shall be allowed in the community room, public bathrooms, lobby, hallways or office in any of our sites.

### **18.10 MISCELLANEOUS RULES**

Pets may not be left unattended in a dwelling unit for over eight (8) hours. If the pet is left unattended and no arrangements have been made for its care, the HA will have the right to enter the premises and take the uncared for pet to be boarded at a local animal care facility at the total expense of the resident.

Residents must take appropriate actions to protect their pets from fleas and ticks.

Pets cannot be kept, bred or used for any commercial purpose.

Residents owning a cat shall maintain waterproof litter boxes for cat waste. Refuse from litter boxes shall not accumulate or become unsightly or unsanitary. Litter shall be disposed of in an appropriate manner.

A pet owner shall physically control or confine his/her pet during the times when HA employees, agents of the PHA or others must enter the pet owner's apartment to conduct business, provide services, enforce lease terms, etc.

If a pet causes harm to any person, the pet's owner shall be required to permanently remove the pet from the PHA's property within 24 hours of written notice from the PHA. The pet owner may also be subject to termination of his/her dwelling lease.

A pet owner who violates any other conditions of this policy may be required to remove his/her pet from the development within 14 calendar days of written notice from the PHA. The pet owner may also be subject to termination of his/her dwelling lease.

The PHA's grievance procedures shall be applicable to all individual grievances or disputes arising out of violations or alleged violations of this policy.

### **18.11 VISITING PETS**

No pets are allowed on PHA property unless registered to a PHA tenant. Pet sitting is not allowed.

## **18.12 REMOVAL OF PETS**

The PHA, or an appropriate community authority, shall require the removal of any pet from a project if the pet's conduct or condition is determined to be a nuisance or threat to the health or safety of other occupants of the project or of other persons in the community where the project is located.

In the event of illness or death of pet owner, or in the case of an emergency which would prevent the pet owner from properly caring for the pet, the PHA has permission to call the emergency caregiver designated by the resident or the local Pet Law Enforcement Agency to take the pet and care for it until family or friends would claim the pet and assume responsibility for it. Any expenses incurred will be the responsibility of the pet owner.

## **19.0 SMOKE-FREE POLICY**

Effective July 1, 2018, the use of tobacco products by residents or guests is prohibited in all public housing living units and interior areas (including but not limited to hallways, porches, administrative offices, maintenance facilities, warehouses, and similar structures). As well as in outdoor areas within 25 feet from public housing, community room, Neighborhood Network Center, administrative and maintenance office buildings.

Prohibited tobacco products are defined as items that involve the ignition and burning of tobacco leaves, such as (but not limited to) cigarettes, cigars, pipes, Electronic Nicotine Delivery System (ENDS) and water pipes (hookahs).

Residents and their guests are responsible for properly disposing of cigarette butts or other tobacco products so as not to litter the grounds.

Residents and employees who smell tobacco smoke from inside housing authority property are to report this to the Housing Director or to the Administrative Office as soon as possible. The housing authority's Management staff will try to identify the source of the smoke and take appropriate action in accordance with this policy.

Failure to abide by this Smoke-Free Policy is a lease violation based on civil behavior with the following consequences:

1<sup>st</sup> Violation will result in a Written Lease Violation.

2<sup>nd</sup> Violation will result in a Written Lease Violation.

3<sup>rd</sup> Violation will result in a Written Lease Violation.

4<sup>th</sup> Violation in any 12-month period will result in a 30-day lease termination.

## **20.0 REPAYMENT AGREEMENTS**

Repayment agreements shall be processed according to the PHA Repayment Agreement Policy. This is a separate policy which is incorporated into this document by reference.

## **21.0 TERMINATION**

### **21.1 TERMINATION BY TENANT**



The tenant may terminate the lease at any time upon submitting a 14-day written notice. If the tenant vacates prior to the end of the fourteen (14) calendar days, they will be responsible for rent through the end of the notice period.

## **21.2 *TERMINATION BY THE HOUSING AUTHORITY***

Twelve months after the PHA has implemented the mandated Community Service Requirement, it will not renew the lease of any non-exempt family that is not in compliance with the Community Service Requirement or approved Agreement to Cure. If they do not voluntarily leave the property, eviction proceedings will begin.

The PHA will terminate the lease for serious or repeated violations of material lease terms. Such violations include, but are not limited to, the following:

- A. Failure to make payments due under the lease, including nonpayment of rent;
- B. Repeated late payment of rent or other charges;
- C. Failure to fulfill household obligations under the lease.

If an individual or family's lease is terminated for criminal activity, the PHA will notify the local post office serving the development that the individual or family no longer lives there.

In deciding to terminate a tenancy for criminal activity or alcohol abuse, the PHA will consider circumstances relevant to the particular case such as the seriousness of the offending action, the extent of participation by the leaseholder in the offending action, the effects that the eviction would have on family members not involved in the offending activity, and the extent to which the leaseholder has shown personal responsibility and has taken all reasonable steps to prevent or mitigate the offending action.

### ***AND/OR***

In deciding to terminate a tenancy for criminal activity or alcohol abuse, the PHA will require a leaseholder 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 an action or failure to act that warrants the termination.

### ***AND/OR***

In deciding to terminate a tenancy for illegal drug use or a pattern of illegal drug use by a household member who is no longer engaging in such use, or for abuse or a pattern of abuse of alcohol by a household member who is no longer engaging in such abuse, the PHA may consider whether such household member:

- 1. Is participating in a supervised drug or alcohol rehabilitation program;
- 2. Has successfully completed a supervised drug or alcohol rehabilitation program; or
- 3. Has otherwise been successfully rehabilitated.

For this purpose, the PHA may require the leaseholder to submit evidence of one of the above 3 statements.

## **21.2A VAWA PROTECTIONS**

Under the Violence Against Women Act (VAWA, notwithstanding the title of the statute, protections are not limited to women but cover victims regardless of sex, gender identity, or sexual orientation), public housing residents have the following specific protections, which will be observed by the PHA:

An applicant for assistance or a tenant/participant receiving assistance under a covered housing provider may not be denied admission to, denied assistance under, terminated from participation in, or evicted from housing on the basis or as a direct result of the fact that the applicant or tenant/participant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy.

An incident or incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence, and shall not in itself be good cause for terminating the assistance, tenancy, or occupancy rights of the victim of such violence.

The Housing Authority shall provide each applicant and resident a HUD prescribed Notice of Occupancy Rights and Certification form. It shall also be provided with any notice of eviction. In addition, the Authority shall make an adopted Emergency Transfer Plan and Emergency Transfer Request available upon request.

The Housing Authority shall keep a record of all emergency transfer requests requested under the Emergency Transfer Plan and the outcome of these request for three years.

The Housing Authority may terminate the assistance to remove a lawful occupant or tenant who engages in criminal acts or threatened acts of violence, dating violence, sexual assault, or stalking to family members or affiliated individuals without terminating the assistance or evicting victimized lawful occupants. This is also true even if the household member or affiliated individual is not a signatory to the lease. Under VAWA, the PHA is granted the authority to bifurcate the lease. The VAWA victim must be the one who retains the assistance.

The Housing Authority will honor court orders regarding the rights of access or control of the property.

There is no limitation on the ability of the Housing Authority to evict for other good cause unrelated to the incident or incidents of domestic violence, dating violence, sexual assault, or stalking, other than the victim may not be subject to a “more demanding standard” than non-victims.

There is no prohibition on the Housing Authority evicting if it “can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant’s (victim’s) tenancy is not terminated.” An actual and imminent threat consists of a physical danger that is real, would occur within an immediate timeframe, and could result in death or serious bodily harm. 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, and the length of time before the potential harm would occur.

Any protections provided by law which give greater protection to the victim are not superseded by these provisions.

The PHA shall require verification in all cases where an individual claims protection against an action involving such individual proposed to be taken by the Housing Authority. Types of acceptable verifications are outlined below, and must be submitted within 14 calendar days after receipt of the Housing Authority's written request for verification.

## ***21.2B VERIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING***

The PHA shall require verification in all cases where an individual claims protection against an action involving such individual proposed to be taken by the Housing Authority. The request for verification shall take the form of a written request by PHA to the claimant.

- A. ***Requirement for Verification.*** The law allows, but does not require, the PHA to verify that an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking claimed by a tenant or other lawful occupant is bona fide and meets the requirements of the applicable definitions set forth in this policy. The Housing Authority shall require verification in all cases where an individual claims protection against an action involving such individual proposed to be taken by the Housing Authority.

Verification of a claimed incident or incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking may be accomplished in one of the following three ways:

1. ***HUD-approved form*** - By providing to the Housing Authority a written certification, on the form approved by the U.S. Department of Housing and Urban Development (HUD), that the individual is a victim of domestic violence, dating violence, sexual assault, or stalking that the incident or incidents in question are bona fide incidents of actual or threatened abuse meeting the requirements of the applicable definition(s) set forth in this policy. The incident or incidents in question must be described in reasonable detail as required in the HUD-approved form, and the completed certification must include the name of the perpetrator, only if the name of the perpetrator is safe to provide and is known to the victim.
2. ***Other documentation*** - by providing to the Housing Authority documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing the domestic violence, dating violence, sexual assault, or stalking, or the effects of the abuse, described in such documentation. The professional providing the documentation must sign and attest under penalty of perjury (28 U.S.C. 1746) to the professional's belief that the incident or incidents in question are bona fide incidents of abuse meeting the requirements of the applicable definition(s) set forth in this policy. The victim of the incident or incidents of domestic violence, dating violence, sexual assault, or stalking described in the documentation must also sign and attest to the documentation under penalty of perjury.
3. ***Police or court record*** – by providing to the Housing Authority a Federal, State, tribal, territorial, or local law enforcement or court record describing the incident or incidents in question.

- B. ***Time allowed to provide verification/failure to provide.*** An individual who claims protection against adverse action based on an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking, and who is requested by the Housing Authority to provide verification, must provide such verification within 14 calendar days after receipt of the written request for verification. Failure to provide verification, in proper form within such time will result in loss of protection under VAWA and this policy against a proposed adverse action. The submission of false information may be the basis for the termination of assistance or for eviction.
- C. ***Managing conflicting documentation.*** In cases where the PHA 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 PHA may determine which is the true victim by requiring third-party documentation as described in 24 CFR 5.2007 and in accordance with any HUD guidance as to how such determinations will be made. The PHA shall honor any court orders addressing rights of access or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household.

## **21.2C CONFIDENTIALITY**

All information provided under VAWA including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, shall be retained in confidence and shall not be entered into any shared database or provided to any related entity except to the extent that the disclosure is:

- A. Requested or consented to by the individual in writing;
- B. Required for used in an eviction proceeding; or
- C. Otherwise required by applicable law.

The PHA shall provide its tenants notice of their rights under VAWA including their right to confidentiality and the limits thereof.

## **21.3 ABANDONMENT**

The PHA will consider a unit to be abandoned when a resident has both fallen behind in rent **AND/OR** has clearly indicated by words or actions an intention not to continue living in the unit.

If the family appears to have vacated the unit without giving proper notice, the PHA will follow state and local landlord-tenant law pertaining to abandonment before taking possession of the unit. If necessary, the PHA will secure the unit immediately to prevent vandalism and other criminal activity.

Prior to taking any adverse action, the PHA will post the unit “abandoned” and allow the family to respond.

When a unit has been abandoned, a PHA representative may enter the unit and remove any abandoned property. It will be stored in a reasonably secure place.

A reasonable storage fee will be charged. The storage fee must be paid in full before the stored contents will be released.

Property will be stored for a period of thirty (30) calendar days and, if not claimed by the family within such thirty (30) calendars after the family has abandoned the premises, then the PHA will dispose of said property.

#### **21.4 RETURN OF SECURITY DEPOSIT**

After a family moves out, the PHA will return the security deposit within thirty (30) calendar days or give the family a written statement of why all or part of the security deposit is being kept. If State law requires the payment of interest on security deposits, it shall be complied with.

The PHA will be considered in compliance with the above if the required payment, statement, or both, are deposited in the U.S. mail with first class postage paid within thirty (30) calendar days.

#### **21.5 THE EIV'S DECEASED TENANTS REPORT**

The PHA shall generate the EIV's Deceased Tenants Report monthly to see if the system flags deceased residents. The PHA shall review the report and follow up with any listed families immediately and take any necessary corrective action as set forth in PIH Notice 2010-50 or successor publications.

### **22.0 COMPLAINTS AND GRIEVANCE PROCEDURE**

Complaints and Grievance Procedures shall be accomplished in accordance with the PHA approved Grievance Procedure. The grievance procedure is incorporated into this document by reference and is the guideline to be used for grievances and appeals.

### **23.0 ANTI-FRAUD POLICY**

The PHA is fully committed to combating fraud in its public housing program. It defines fraud as a single act or pattern of actions that include false statements, the omission of information, or the concealment of a substantive fact made with the intention of deceiving or misleading the PHA. It results in the inappropriate expenditure of public housing funds and/or a violation of public housing requirements.

Although there are numerous different types of fraud that may be committed, the two most common are the failure to fully report all sources of income and the failure to accurately report who is residing in the residence. The PHA shall aggressively attempt to prevent all cases of fraud.

When a fraudulent action is discovered, the PHA shall take action. It shall do one or more of the following things depending on circumstances and what it determines appropriate:

- A. Require the resident to immediately repay the amount in question;
- B. Require the resident to enter into a satisfactory repayment agreement as set forth in a previous section of this Policy;
- C. Terminate the resident's tenancy;

- D. Refer the case for criminal prosecution; or
- E. Take such other action as the PHA deems appropriate.

## **24.0 CLOSING OF FILES/PURGING INACTIVE FILES**

The PHA will purge inactive files after they have been closed for a period of three (3) years with the exception of troubled cases or cases involving a household containing a minor with a reported elevated blood-lead level.

During the term of tenancy and for three (3) years thereafter, the PHA will keep the resident file. In addition, the PHA must keep for at least three (3) years the following records:

- 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 and the public housing maximum rent
- Documentation supporting the establishment of utility allowances and surcharges
- Documentation related to PHAS
- Accounts and other records supporting PHA budget and financial statements for the program
- Previous tenant files with balances owed until the balance is paid
- Other records as determined by the PHA or as required by HUD

The PHA shall retain all data for current residents for audit purposes. No information shall be removed which may affect an accurate audit.

## **25.0 APPROVAL PROCESS FOR RESIDENTS REQUESTING PERMISSION TO OPERATE A BUSINESS IN THE UNIT**

Prior to making a determination, the resident shall request the PHA's permission in writing and include in the request a complete outline of business activities and other data as may be requested by the PHA. Resident shall get permission from the PHA before the business is started. When a resident desires to operate a legal profit making business from the leased unit, the PHA shall use the following factors in determining whether or not such activities are incidental to the primary use of the leased unit:

1. Local Building health codes, requirements for license or governmental approval;
2. Local Zoning Ordinances;
3. The effect of PHA Insurance Coverage;
4. Utility Consumption;
5. Possible Damage to the leased unit;

6. Estimated traffic and parking;
7. Disturbance of other residents;
8. Attraction of non-residents to the neighborhoods; and,
9. Possible use of tenant business as cover for drug-related activities.

## **26.0 ADDITIONAL PHA POLICIES AND CHARGES**

Additional policies and charges may be changed from time to time, or amended, and such changes or amendments shall be substituted in this document so as to keep this policy current.

## **27.0 PRIVACY**

MHA is strongly committed to protecting the privacy of people dealing with the agency to the greatest degree practical. There are numerous federal privacy laws, regulations, notices, and other requirements that the Housing Authority follows to the greatest degree practical. Details about these requirements are set forth in PIH Notice 2015-06 and any ensuing publications. The Housing Authority will educate all of its employees who have access to personally identifiable information (PII) and/or Sensitive Personally Identifiable Information about these requirements and expect them to appropriately manage and safeguard the information. Employees will also be trained on the proper disposition of said information.

## GLOSSARY

Definitions are amended from time to time and are contained in Section 24 CFR, which are incorporated by reference as if fully set out herein.

**50058 Form:** The HUD form that housing authorities are required to complete and electronically submit to HUD for each assisted household in public housing to record information used in the certification and re-certification process and, at the option of the housing authority, for interim reexaminations. Housing Authorities must retain at a minimum the last three years of the form 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 date. Electronic retention of form HUD 50058 and HUD 50058-FSS and supporting documentation fulfills the record retention requirement.

**1937 Housing Act:** The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) (24 CFR 5.100)

**Adjusted Annual Income:** The amount of household income, after deductions for specified allowances, on which tenant rent is based. (24 CFR 5.611)

**Actual and imminent threat:** a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. 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, and the length of time before the potential harm would occur.

**Adult:** A household member who is 18 years or older or who is the head of the household, or spouse, or co-head. An emancipated minor is also considered an adult. In the anti-drug portions of this policy, it also refers to a minor who has been convicted of a crime as an adult under any Federal, State or tribal law.

**Affiliated individual:** with respect to an individual, means: (1) A spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in the place of a parent or guardian (for example, the affiliated individual is a person in the care, custody, or control of that individual); or (2) Any individual, tenant, or lawful occupant living in the household of that individual.

**Allowances:** Amounts deducted from the household's annual income in determining adjusted annual income (the income amount used in the rent calculation). Allowances are given for elderly families, dependents, medical expenses for elderly and disabled families, disability expenses, and childcare expenses for children under 13 years of age. Other allowance can be given at the discretion of the housing authority.

**Annual Contributions Contract (ACC):** The written contract between HUD and a housing authority under which HUD agrees to provide funding for a program under the 1937 Act, and the housing authority agrees to comply with HUD requirements for the program. (24 CFR 5.403)

**Annual Income:** All amounts, monetary or not, that:

- A. Go to (or on behalf of) the family head or spouse (even if temporarily absent) or to any other family member; or
- B. Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and



C. Are not specifically excluded from annual income.

Annual Income also includes amounts derived (during the 12-month period) from assets to which any member of the family has access. (1937 Housing Act; 24 CFR 5.609)

**Applicant (applicant family):** A person or family that has applied for admission to a program but is not yet a participant in the program. (24 CFR 5.403)

**Assets:** The value of equity in savings, checking, IRA and Keogh accounts, real property, stocks, bonds, and other forms of capital investment. The value of necessary items of personal property such as furniture and automobiles are not counted as assets. (Also see "net family assets.")

**Asset Income:** Income received from assets held by family members. If assets total more than \$5,000, income from the assets is "imputed" and the greater of actual asset income and imputed asset income is counted in annual income. (See "imputed asset income" below.)

**Assistance applicant:** A family or individual that seeks admission to the public housing program.

**Bifurcate:** means to divide a lease as a matter of law, subject to the permissibility of such process under the requirements of the applicable HUD covered program and State or local law, such that certain tenants or lawful occupants can be evicted or removed and the remaining tenants or lawful occupants can continue to reside in the unit under the same lease requirements or as may be revised depending upon the eligibility for continued occupancy of the remaining tenants and lawful occupants.

**Business Days:** Days the housing authority is open for business.

**Ceiling Rent:** Maximum rent allowed for some units in public housing developments under the income method of calculating rent. It must equal or exceed the Flat Rent.

**Certification:** The examination of a household's income, expenses, and family composition to determine the family's eligibility for program participation and to calculate the family's share of rent.

**Child:** For purposes of citizenship regulations, a member of the family other than the family head or spouse who is under 18 years of age. (24 CFR 5.504(b))

**Childcare 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 his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for childcare. In the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income. (24 CFR 5.603(d))

**Citizen:** A citizen or national of the United States. (24 CFR 5.504(b))

**Community service:** 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.

**Consent Form:** Any consent form approved by HUD to be signed by assistance applicants and participants for the purpose of obtaining income information from employers and SWICAs, return information from the Social

Security Administration, and return information for unearned income from the Internal Revenue Service. The consent forms may authorize the collection of other information from assistance applicants or participant to determine eligibility or level of benefits. (24 CFR 5.214)

**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.

**Covered Person:** For purposes of the anti-drug provisions of this policy, a covered person is a tenant, any member of the tenant's household, a guest or another person under the tenant's control.

**Currently engaging in:** With respect to behavior such as illegal use of a drug, other drug-related criminal activity, or other criminal activity, currently engaging in means that the individual has engaged in the behavior recently enough to justify a reasonable belief that the individual's behavior is current. Arrests alone are not sufficient evidence of criminal activity.

**Dating Violence:** Violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship.

**Decent, Safe, and Sanitary:** Housing is decent, safe, and sanitary if it satisfies the applicable housing quality standards.

**Department:** The Department of Housing and Urban Development. (24 CFR 5.100)

**Dependent:** A member of the family (except 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. (24 CFR 5.603(d))

**Dependent Allowance:** An amount, equal to \$480 multiplied by the number of dependents, that is deducted from the household's annual income in determining adjusted annual income.

**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. (24 CFR 5.603(d))

**Disability Assistance Expense Allowance:** In determining adjusted annual income, the amount of disability assistance expenses deducted from annual income for families with a disabled household member.

**Disabled Family:** A family whose head (including co-head), 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. (24 CFR 5.403(b)) (Also see "person with disabilities.")

**Disabled Person:** See "person with disabilities."

**Displaced Family:** A family in which each member, or whose sole member, is a person displaced by governmental action (such as urban renewal), 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. (24 CFR 5.403(b))

**Displaced Person:** 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. [1937 Act]

**Domestic Violence:** Includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim share a child in common, by a person who is cohabitated with or has cohabited with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that persons acts under the domestic or family violence laws of the jurisdiction. The term “spouse or intimate partner of the victim” includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

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

**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.

**Economic self-sufficiency program:** Any program designed to encourage, assist, train or facilitate the economic independence of HUD-assisted families or to provide work for such families. These programs include programs for job training, employment counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management, apprenticeship, and any program necessary to ready a participant for work (including a substance abuse or mental health treatment program), or other work activities.

**Elderly Family:** A family whose head (including co-head), 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. (24 CFR 5.403)

**Elderly/Disabled Family Allowance:** For elderly families, an allowance of \$400 is deducted from the household's annual income in determining adjusted annual income.

**Elderly Person:** A person who is at least 62 years of age. (1937 Housing Act)

**Extremely low-income families:** A very low-income family whose income does not exceed the higher of 30% of the median income for the area (as determined by HUD with adjustments for smaller and larger families) or the Federal poverty level, except that HUD may establish income ceilings higher or lower than 30% of the median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

**Fair Housing Act:** Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. 3601 et seq.). (24 CFR 5.100)

**Family** includes but is not limited to:

- A. A family with or without children;
- B. An elderly family;
- C. A near-elderly family;
- D. A disabled family;

- E. A displaced family;
- F. The remaining member of a tenant family; and
- G. A single person who is not an elderly or displaced person, a person with disabilities, or the remaining member of a tenant family. (24 CFR 5.403)

**Family Members:** All members of the household other than live-in aides, foster children, and foster adults. All family members permanently reside in the unit, though they may be temporarily absent. All family members are listed on the lease.

**Family Self-Sufficiency Program (FSS Program):** The program established by a housing authority to promote self-sufficiency among participating families, including the coordination of supportive services. (24 CFR 984.103(b))

**Flat Rent:** A rent amount the family may choose to pay in lieu of having their rent determined under the income method. The flat rent is established by the housing authority based on a HUD mandate that it be set at not less than 80% of the FMR, adjusted for tenant-paid utilities. PHAs have the flexibility to conduct reexaminations of family income once every three years instead of annually for families that choose to pay the flat rent. The flat rent amount a family pays is not locked in for the three-year period. Instead, the PHA must revise the flat rent amount from year to year based on the findings of the PHA's rent reasonableness analysis and changes to the FMR.

**Full-Time Student:** A person who is attending school or vocational training on a full-time basis as defined by the institution.

**Gender Identity:** Actual or perceived gender-related characteristics.

**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.

**Head of Household:** The adult member of the family who is the head of the household for purposes of determining income eligibility and rent. (24 CFR 5.504(b))

**Household Members:** All members of the household including members of the family, live-in aides, foster children, and foster adults. All household members are listed on the lease, and no one other than household members are listed on the lease.

**Housing Assistance Plan:** A housing plan that is submitted by a unit of general local government and approved by HUD as being acceptable under the standards of 24 CFR 570.

**Immediate Family Member:** a spouse, parent, brother or sister, or child of the person, or an individual to whom that person stands in loco parentis (in place of a parent); or any other person living in the household of that person and related to that person by blood or marriage.

**Imputed Income:** For households with net family assets of more than \$5,000, the amount calculated by multiplying net family assets by a HUD-specified percentage. If imputed income is more than actual income from assets, the imputed amount is used as income from assets in determining annual income.

**Imputed welfare income:** The amount of annual income not actually received by a family, as a result of a welfare benefit reduction for welfare fraud or the failure to comply with economic self-sufficiency requirements, that is nonetheless included in the family's annual income for purposes of determining rent.

**In-Kind Payments:** Contributions other than cash made to the family or to a family member in exchange for services provided or for the general support of the family (e.g., groceries provided on a weekly basis, baby sitting provided on a regular basis).

**Income Method:** A means of calculating a family's rent based on the greater of 10% of their monthly income, 30% of their adjusted monthly income, the welfare rent, or the minimum rent. Under the income method, rents may be capped by a ceiling rent as long as the ceiling rent equals or exceeds the flat rent. Under this method, the family's income is evaluated at least annually.

**Interim (examination):** A reexamination of a family income, expenses, and household composition conducted between the regular annual re-certifications when a change in a household's circumstances warrants such a reexamination.

**Law enforcement agency:** The National Crime Information Center (NCIC), police departments and other law enforcement agencies that hold criminal conviction records.

**Live-In Aide:** A person who resides with one or more elderly persons, near-elderly persons, or persons with disabilities and who:

- A. Is determined to be essential to the care and well-being of the persons;
- B. Is not obligated for the support of the persons; and
- C. Would not be living in the unit except to provide the necessary supportive services. (24 CFR 5.403(b))

A live-in aide is not a party to the lease.

**Low-Income Families:** Those families whose incomes do not exceed 80% of the median income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 80% of the median for the area on the basis of HUD's findings that such variations are necessary because of unusually high or low family incomes.

**Medical Expenses:** Medical expenses (of all family members of an elderly or disabled family), including medical insurance premiums, that are anticipated during the period for which annual income is computed and that are not covered by insurance. (24 CFR 5.603(d)). These expenses include, but are not limited to, prescription and non-prescription drugs, costs for doctors, dentists, therapists, medical facilities, care for a service animals, transportation for medical purposes.

**Mixed Family:** A family whose members include those with citizenship or eligible immigration status and those without citizenship or eligible immigration status. (24 CFR 5.504(b))

**Mixed population development:** A public housing development, or portion of a development, that was reserved for elderly and disabled families at its inception (and has retained that character). If the development was not so reserved at its inception, the PHA has obtained HUD approval to give preference in tenant selection for all units in the development (or portion of development) to elderly families and disabled families. These developments were formerly known as elderly projects.

**Monthly Adjusted Income:** One twelfth of adjusted income. (24 CFR 5.603(d))

**Monthly Income:** One twelfth of annual income. (24 CFR 5.603(d))

**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. (24 CFR 5.504(b))

**Near-Elderly Family:** A family whose head (including co-head), spouse, or sole member is a person who is at least 50 years of age but below the age of 62; two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides. (24 CFR 5.403(b))

**Net Family Assets:**

- A. Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.
- B. In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income.
- C. In determining net family assets, housing authorities or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms. (24 CFR 5.603(d))

**Non-Citizen:** A person who is neither a citizen nor national of the United States. (24 CFR 5.504(b))

**Occupancy Standards:** The standards that a housing authority establishes for determining the appropriate number of bedrooms needed to house families of different sizes or composition.

**Other person under the tenant's control:** For the purposes of the definition of covered person it means the person, although not staying as a guest (as defined in this section) in the unit, is, or was at the time of the activity in question, on the premises (as premises is defined in this section) 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.

**Participant:** A family or individual that is assisted by the public housing program.

**Permanently absent:** A person or persons not actually residing in the unit who once lived there and does not intend to return. One becomes permanently absent when one vacates the unit or is absent more than 180 consecutive days.

**Person with Disabilities:** A person who:

- A. Has a disability as defined in 42 U.S.C. 423
- B. Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:
  - 1. Is expected to be of long-continued and indefinite duration;
  - 2. Substantially impedes his or her ability to live independently; and
  - 3. Is of such a nature that the ability to live independently could be improved by more suitable housing conditions.
- C. Has a developmental disability as defined in 42 U.S.C. 6001.

This definition does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome.

For purposes of qualifying for low-income housing, it does not include a person whose disability is based solely on any drug or alcohol dependence.

**Personally Identifiable Information (PII):** Information which can be used to distinguish or trace an individual's identity, such as their name, social security number, biometric records, etc. alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name, etc.

**Premises:** for purposes of the anti-drug provisions of this policy it means the building or complex or development in which the public or assisted housing dwelling unit is located, including common areas and grounds.

**Previously unemployed:** This includes 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.

**Processing Entity:** The person or entity that is responsible for making eligibility and related determinations and an income reexamination. In the Section 8 and public housing programs, the processing entity is the responsibility entity.

**Proration of Assistance:** The reduction in a family's housing assistance payment to reflect the proportion of family members in a mixed family who are eligible for assistance. (24 CFR 5.520)

**Public Housing:** Housing assisted under the 1937 Act, other than under Section 8. Public housing includes dwelling units in a mixed-finance project that are assisted by a PHA with capital or operating funds.

**Public Housing Agency (PHA):** Any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of low-income housing under the 1937 Housing Act. (24 CFR 5.100)

**Recertification:** The annual reexamination of a family's income, expenses, and composition to determine the family's rent.

**Remaining Member of a Tenant Family:** A member of the family listed on the lease who continues to live in the public housing dwelling after all other family members have left.

**Responsible Entity:**

- A. For the public housing program, the Section 8 tenant-based assistance program (24 CFR 982), and the Section 8 project-based certificate or voucher program (24 CFR 983), and the Section 8 moderate rehabilitation program (24 CFR 882), responsible entity means the PHA administering the program under an ACC with HUD;
- B. For all other Section 8 programs, responsible entity means the Section 8 project owner.

**Self-Declaration:** A type of verification statement by the tenant as to the amount and source of income, expenses, or family composition. Self-declaration is acceptable verification only when third-party verification or documentation cannot be obtained.

**Sensitive Personally Identifiable Information:** PII that when lost, compromised or disclosed without authorization could substantially harm an individual. Examples of sensitive PII include social security or driver's license numbers, medical records, and financial account numbers such as credit or debit card numbers.

**Sexual assault:** any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

**Sexual Orientation:** Homosexuality, heterosexuality, or bisexuality.

**Shelter Allowance:** That portion of a welfare benefit (e.g., TANF) that the welfare agency designates to be used for rent and utilities.

**Single Person:** Someone living alone or intending to live alone who does not qualify as an elderly family, a person with disabilities, a displaced person, or the remaining member of a tenant family. (Public Housing: Handbook 7465.1 REV-2, 3-5)

**Specified Welfare Benefit Reduction:**

- A. 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.
- B. "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:
  - 1. at the expiration of a lifetime or other time limit on the payment of welfare benefits;
  - 2. 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
  - 3. because a family member has not complied with other welfare agency requirements.



**Stalking:** engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (1) Fear for the person's individual safety or the safety of others; or (2) Suffer substantial emotional distress.

**State Wage Information Collection Agency (SWICA):** The State 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. (24 CFR 5.214)

**Temporarily absent:** A person or persons not actually residing in a unit for a period of time while still maintaining control of the unit. Generally, an absence less than 180 consecutive days is considered temporary.

**Temporary Assistance to Needy Families (TANF):** The program that replaced the Assistance to Families with Dependent Children (AFDC) that provides financial assistance to needy families who meet program eligibility criteria. Benefits are limited to a specified time period.

**Tenant:** The person or family renting or occupying an assisted dwelling unit. (24 CFR 5.504(b))

**Tenant Rent:** The amount payable monthly by the family as rent to the housing authority. Where all utilities (except telephone) and other essential housing services are supplied by the housing authority or owner, tenant rent equals total tenant payment. Where some or all utilities (except telephone) and other essential housing services are supplied by the housing authority and the cost thereof is not included in the amount paid as rent, tenant rent equals total tenant payment less the utility allowance. (24 CFR 5.603(d))

**Third-Party (verification):** Written or oral confirmation of a family's income, expenses, or household composition provided by a source outside the household.

**Total Tenant Payment (TTP):**

A. Total tenant payment for families whose initial lease is effective on or after August 1, 1982:

1. Total tenant payment is the amount calculated under Section 3(a)(1) of the 1937 Act which is the higher of :
  - a. 30% of the family's monthly adjusted income;
  - b. 10% of the family's monthly income; or
  - c. If the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of such payments which is so designated.

If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under section 3(a)(1) shall be the amount resulting from one application of the percentage.

2. Total tenant payment for families residing in public housing does not include charges for excess utility consumption or other miscellaneous charges.
- B. Total tenant payment for families residing in public housing whose initial lease was effective before August 1, 1982: Paragraphs (b) and (c) of 24 CFR 913.107, as it existed immediately before

November 18, 1996), will continue to govern the total tenant payment of families, under a public housing program, whose initial lease was effective before August 1, 1982.

**Tuition:** The amount of tuition and required fees covering a full academic year most frequently charged to students. These values represent what a typical student would be charged and may not be the same for all students at an institution. If tuition is charged on a per-credit-hour basis, the average full-time credit hour load for an entire academic year is used to estimate average tuition. Required fees include all fixed sum charges that are required of a large proportion of all students. The student who does not pay the charges is an exception. Verification of tuition and fees can be obtained from the student's bill or annual statement, by contacting the bursar's office, or from the school's website.

Examples of required fees include, but are not limited to, writing and science lab fees and fees specific to the student's major or program (i.e., nursing program).

Expenses related to attending an institution of higher education must **not** be included as tuition. Examples of these expenses include, but are not limited to, room and board, books, supplies, meal plans, transportation and parking, student health insurance plans, and other non-fixed sum charges.

For Section 8 programs only, PHAs must include amounts of financial assistance an individual receives in excess of tuition and other required fees and charges when determining annual income.

For the Public Housing program, the full amount of financial assistance a student receives while participating in the program continues to be excluded from the program participant's annual income.

**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 by a housing authority 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. (24 CFR 5.603)

**Utility Reimbursement:** The amount, if any, by which the utility allowance for the unit, if applicable, exceeds the total tenant payment for the family occupying the unit. (24 CFR 5.603)

**VAWA:** The Violence Against Women Act of 1994, as amended (42 U.S.C. 13925 and 42 U.S.C. 14043e et seq.).

**Very Low-Income Families:** Families whose incomes do not exceed 50% of the median family income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 50% of the median for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

**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. Arrests alone are not sufficient evidence of criminal activity.

**Welfare Assistance:** Welfare or other payments to families or individuals, based on need, that are made under programs funded, separately or jointly, by Federal, State or local governments (including assistance provided under the Temporary Assistance for Needy Families (TANF) program, as that term is defined under the implementing regulations issued by the Department of Health and Human Services at 45 CFR 260.31).

45 CFR 260.31 defines the term “assistance” to include cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses).

It includes such benefits even when they are:

- A. Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and
- B. Conditioned on participation in work experience or community service (or any other work activity under 45 CFR 261.30).

Except where excluded later in this definition, it also includes supportive services such as transportation and childcare provided to families who are not employed.

The term “assistance” excludes:

- A. Nonrecurrent, short-term benefits that:
  - 1. Are designed to deal with a specific crisis situation or episode of need;
  - 2. Are not intended to meet recurrent or ongoing needs; and
  - 3. Will not extend beyond four months.
- B. Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);
- C. Supportive services such as child care and transportation provided to families who are employed;
- D. Refundable earned income tax credits;
- E. Contributions to, and distributions from, Individual Development Accounts;
- F. Services such as counseling, case management, peer support, childcare information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and
- G. Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of the Act, to an individual who is not otherwise receiving assistance.

**Written notification:** All written notifications required in this policy shall be hand delivered with a signed receipt or mailed via first class mail unless specified otherwise.

## ACRONYMS

ACC	Annual Contributions Contract
CFR	Code of Federal Regulations
FSS	Family Self Sufficiency (program)
HCDA	Housing and Community Development Act
HQS	Housing Quality Standards
HUD	Department of Housing and Urban Development
INS	(U.S.) Immigration and Naturalization Service
NAHA	(Cranston-Gonzalez) National Affordable Housing Act
NOFA	Notice of Funding Availability
OMB	(U.S.) Office of Management and Budget
PHA	Public Housing Agency
QHWRA	Quality Housing and Work Responsibility Act of 1998
SSA	Social Security Administration
TTP	Total Tenant Payment